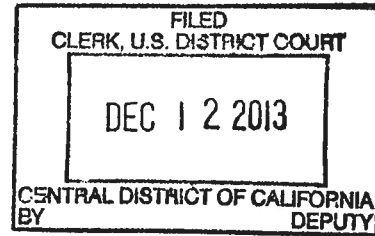


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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10 ROBERT OTTEN, an individual
11 California resident,

12 Plaintiff,

13 v.

14 LENDER PROCESSING SERVICES,
15 INC., a Delaware corporation; and
DOES 1-50, inclusive,

16 Defendants.
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CV13-9172 JFW (VBKx)
Case No.

**NOTICE TO FEDERAL COURT OF
REMOVAL OF CIVIL ACTION
FROM STATE COURT**

[28 U.S.C. §§ 1332(a)(1), 1441, 1446]

(DIVERSITY)

Complaint filed in Los Angeles County
Superior Court: October 17, 2013

1 **TO THE CLERK OF THE ABOVE-ENTITLED COURT, PLAINTIFF, AND**
2 **HIS ATTORNEYS OF RECORD:**

3 PLEASE TAKE NOTICE that Defendant Lender Processing Services, Inc.
4 (“LPS”) hereby removes to the United States District Court for the Central District of
5 California the above-captioned action brought by Plaintiff Robert Otten (“Plaintiff”)
6 in the Superior Court of the State of California, County of Los Angeles, Case No.
7 BC524845 for the reasons and on the grounds stated below:

8 **I.**

9 **STATEMENT OF JURISDICTION**

10 1. This action is a civil action over which this Court has original jurisdiction
11 based on complete diversity of citizenship pursuant to 28 U.S.C. section 1332(a), and
12 is one which may be removed to this Court by LPS, a Delaware corporation, pursuant
13 to 28 U.S.C. section 1441 because it is a civil action between citizens of different
14 states and the amount in controversy exceeds \$75,000, exclusive of interest and costs,
15 as set forth below. 28 U.S.C. §§ 1332, 1441(a), and 1446(b).

16 **II.**

17 **VENUE**

18 2. The action was filed in the Superior Court of California for the County of
19 Los Angeles. Accordingly, venue properly lies in the United States District Court for
20 the Central District of California pursuant to 28 U.S.C. sections 84(c)(2), 1391, 1446.

21 **III.**

22 **STATUS OF PLEADINGS, PROCESS AND ORDERS**

23 3. On October 17, 2013, an action was commenced in the Superior Court of
24 the State of California, County of Los Angeles (the “Superior Court”), entitled
25 *ROBERT OTTEN, an individual California resident, Plaintiff v. LENDER*
26 *PROCESSING SERVICES, INC., a Delaware corporation; and DOES 1-50, inclusive,*
27 *Defendants*, designated as Case No. BC524845 (the “State Court Action”). A true and
28 correct copy of the Complaint in the State Court Action is attached hereto

1 as **Exhibit A**.

2 4. On or about November 13, 2013, Plaintiff served the Complaint upon
3 LPS's agent for service of process, CT Corporation. In addition to the Complaint, a
4 Summons, Civil Case Cover Sheet, Civil Case Cover Sheet Addendum, Notice of
5 Case Assignment, Notice of Case Management Conference, and Alternative Dispute
6 Resolution packet were also served upon LPS. True and correct copies of the
7 documents served upon LPS are attached as follows:

8 a. **Exhibit A** – Complaint

9 b. **Exhibit B** – Summons, Civil Case Cover Sheet and Civil Case
10 Cover Sheet Addendum

11 c. **Exhibit C** – Notice of Case Assignment, Notice of Case
12 Management Conference, Alternative Dispute Resolution packet

13 5. On December 11, 2013, LPS filed its Answer to the Complaint in the
14 State Court Action. A true and correct copy of LPS's Answer is attached hereto as
15 **Exhibit D**.

16 6. The documents attached hereto as Exhibits A through D (as explained
17 above) constitute all process, pleadings, or orders related to this case that have been
18 served upon LPS in the State Court Action. The attachments thereby satisfy the
19 requirements of 28 U.S.C. section 1446(a).

20 IV.

21 TIMELINESS OF REMOVAL

22 7. This Notice of Removal is timely. Under 28 U.S.C. section 1446(b) the
23 notice of removal of a civil action must be filed within thirty (30) days after service of
24 process. 28 U.S.C. § 1446(b); *see Murphy Bros., Inc. v. Michetti Pipe Strining, Inc.*,
25 526 U.S. 344, 354 (1999) (the 30-day removal period runs from the service of the
26 summons and complaint). LPS was served with a copy of Plaintiff's Summons and
27 Complaint on November 13, 2013. A true and correct copy of Plaintiff's Proof of
28 Service of Summons and Complaint is attached hereto as **Exhibit E**. As such, this

1 Notice of Removal is timely since it was filed within thirty days of service of process.

2 V.

3 **REMOVAL BASED ON DIVERSITY OF CITIZENSHIP**

4 8. This Court has original jurisdiction over this civil suit pursuant to
5 diversity of citizenship jurisdiction. *See* 28 U.S.C. § 1332(a)(1). In defining diversity
6 of citizenship jurisdiction, Section 1332(a) provides:

7 The district court shall have original jurisdiction of all civil
8 actions where the matter in controversy exceeds the sum or
9 value of \$75,000, exclusive of interest and costs, and is
10 between – (1) Citizens of different states

11 28 U.S.C. § 1332(a).

12 **A. Plaintiff is a Citizen of California.**

13 9. Citizenship of a natural person is established by domicile. 28 U.S.C. §
14 1332(a)(1) (an individual is a citizen of the state in which he or she is domiciled). A
15 person's domicile is established by physical presence and an intent to remain
16 indefinitely. *Lew v. Moss*, 797 F.2d 747, 749-50 (9th Cir. 1986); *Kanter v. Warner-*
17 *Lambert Co.*, 265 F.3d 853, 857 (9th Cir. 2001). Furthermore, allegations of
18 residency in a state court complaint can create a rebuttable presumption of domicile
19 supporting diversity of citizenship. *Lew*, 797 F.2d at 751.

20 10. Plaintiff is a citizen of the State of California, and was so when he filed
21 the State Court Action. *See* Exh. A, Compl., at ¶ 3 (“At all relevant times mentioned
22 herein, Plaintiff was an individual residing within the County of Los Angeles, State of
23 California.”). In fact, Plaintiff expressly characterizes himself in the caption of his
24 Complaint as a “California resident.” *See* Exh. A (“*ROBERT OTTEN, an individual*
25 *California resident.*”).

26 11. Furthermore, Plaintiff has established his citizenship in California
27 through his longtime physical presence and lack of intention to leave. Plaintiff resided
28 in California throughout his employment with LPS's subsidiary LPS Management

1 LLC¹, which spanned from October 27, 2004 to May 1, 2013. *See* Declaration of
 2 Annie Manvelyan in Support of Defendant Lender Processing Services, Inc.'s Notice
 3 of Removal to Federal Court ("Manvelyan Decl."), at ¶¶ 3, 4. Throughout that time,
 4 Plaintiff worked at LPS Management LLC's location in Pasadena, California and did
 5 not indicate any intent to leave California. *Id.* at ¶¶ 3, 4. Accordingly, Plaintiff is a
 6 citizen of the state of California for purposes of diversity jurisdiction analysis.

7 **B. LPS is Not a Citizen of California.**

8 12. For diversity purposes, a corporation "shall be deemed a citizen of any
 9 State by which it has been incorporated and of the State where it has its principal place
 10 of business." 28 U.S.C. § 1332(c)(1). The United States Supreme Court has
 11 confirmed that to determine a corporation's principal place of business, a court must
 12 apply the "nerve center" test. *See Hertz v. Friend*, 175 L. Ed. 2d 1029 (2010). In
 13 relevant part, the Court explained, as follows:

14 We conclude that 'principal place of business' is best read as
 15 referring to the place where a corporation's officers direct,
 16 control, and coordinate the corporation's activities. It is the
 17 place that Courts of Appeals have called the corporation's
 18 'nerve center.' And in practice it should normally be the
 19 place where the corporation maintains its headquarters --
 provided that the headquarters is the actual center of
 direction, control, and coordination, i.e., the 'nerve center,'
 and not simply an office where the corporation holds its
 board meetings (for example, attended by directors and
 officers who have traveled there for the occasion).

20 *Id.* at 1041-42.

21 13. Here, LPS is presently, and was at the time of the commencement of this
 22 suit, a citizen of the state of Delaware as provided in 28 U.S.C. § 1332(c) because it
 23 was and is a corporation duly organized and validly existing under and pursuant to the
 24 laws of the state of Delaware. *See* Haley Decl., at ¶ 3; *see also* Compl. caption

25
 26 ¹ LPS Management, LLC, which was Plaintiff's employer, is also a corporation duly
 27 organized and validly existing under and pursuant to the laws of the state of Delaware
 28 with its principal place of business is in Jacksonville, Florida. *See* Declaration of
 Colleen Haley in Support of Defendant Lender Processing Services, Inc.'s Notice of
 Removal to Federal Court ("Haley Decl."), at ¶ 5.

1 (“*Lender Processing Services, Inc., a Delaware corporation*”).²

2 14. Moreover, LPS’s principal place of business is in Jacksonville, Florida.
3 LPS’s corporate headquarters are located in Jacksonville, Florida and its executive
4 officers direct, control and coordinate the corporation’s activities and executive
5 functions from its corporate headquarters in Jacksonville, Florida. *See* Haley Decl., at
6 ¶¶ 3, 4; *Breitman v. May Co. California*, 37 F.3d 562, 564 (9th Cir. 1994) (corporation
7 is citizen of state in which its corporate headquarters are located and where its
8 executive and administrative functions are performed). Its LPS has no employees in
9 California. *See* Haley Decl., at ¶ 4. Therefore, Jacksonville, Florida is LPS’s
10 principal place of business under the “nerve center” test.

11 **C. Complete Diversity Exists As No Other Parties Have Been Identified.**

12 15. There are no other identified defendants. Defendants “Does 1 through
13 50” are wholly fictitious. The Complaint does not set forth the identity or status of
14 any fictitious defendants, nor does it set forth any charging allegation against any
15 fictitious defendants. Thus, pursuant to Section 1441(a), the citizenship of defendants
16 sued under fictitious names must be disregarded for purposes of determining diversity
17 jurisdiction and cannot destroy the diversity of citizenship between the parties in this
18 action. *See Newcombe v. Adolf Coors Co.*, 157 F.3d 686, 690-91 (9th Cir. 1998).

19 16. Accordingly, after disregarding the non-served Doe defendants, and
20 given that Plaintiff is citizen of California and LPS is a citizen of Delaware and
21 Florida, complete diversity of citizenship exists in this case.

22 **VI.**

23 **THE AMOUNT IN CONTROVERSY EXCEEDS \$75,000**

24 17. The Complaint asserts the following six causes of action: (1)
25 Discrimination on the Basis of Age (Fair Employment and Housing Act (“FEHA”),
26

27 ² Plaintiff also alleges, in contradiction to his Complaint’s caption, that LPS is a
28 California corporation (*see* Compl., at ¶ 4); however, Plaintiff is mistaken. *See* Haley
Decl., at ¶¶ 3, 4.

Cal. Gov't Code § 12940); (2) Wrongful Termination in Violation of Public Policy; (3) Failure to Pay Overtime Compensation in Violation of Cal. Labor Code §§ 1198, 1194; (4) Knowing and Intentional Failure to Comply with Itemized Employee Wage Statement Provisions (Cal. Labor Code § 226) (5) Failure to Timely Pay Wages Due to Termination (Cal. Labor Code §§ 201, 202, 203); and (6) Unlawful Business Practices (Cal. Bus. & Prof. Code § 17200).

18. For purposes of determining whether the minimum amount in controversy has been satisfied, the Court must presume that Plaintiff will prevail on each and every one of his claims. *Kenneth Rothschild Trust v. Morgan Stanley Dean Witter*, 199 F. Supp. 2d 993, 1001 (C.D. Cal. 2002). LPS need only establish by a preponderance of evidence that Plaintiff's claims exceed the jurisdictional minimum. *Singer v. State Farm Mut. Auto Ins. Co.*, 116 F.3d 373, 376 (9th Cir. 1997); *Sanchez v. Monumental Life Ins. Co.*, 102 F.3d 398, 404 (9th Cir. 1996). By demonstrating that the actual amount in controversy exceeds the \$75,000 threshold, LPS does not concede the validity of Plaintiff's claims, the legal bases for the damages calculations, or the likelihood that Plaintiff will recover anything.

A. Plaintiff Seeks Well Over \$75,000 in Economic Damages.

19. **Back Pay and Front Pay:** Plaintiff seeks recovery of back pay and front pay in connection with his first and second claims for age discrimination in violation of FEHA and wrongful termination in violation of public policy. *See* Compl., ¶¶ 34, 40 ("Plaintiff has been directly and legally caused to suffer actual damages including, but not limited to, loss of earning and future earning capacity...and other pecuniary loss not presently ascertained."). At the time of his separation from employment, Plaintiff earned \$60,517.62 per year, or approximately \$29.10 per hour (assuming 2080 work hours). *See* Manvelyan Decl., at ¶ 3.

a. Assuming, *arguendo*, Plaintiff were to recover back pay from the time of his employment separation, which Plaintiff alleges occurred on or about May 1, 2013 (*see* Compl., at ¶¶ 25, 33), until the time he filed the

Complaint, on or about October 17, 2013, Plaintiff would be entitled to approximately \$27,936 in back pay (24 week duration x 40 hours per week x \$29.10 per hour) before even considering Plaintiff's overtime allegations.

- b. Assuming, *arguendo*, Plaintiff were to recover front pay, he may awarded several years of pay. Front pay awards in California frequently span a number of years. *See Smith v. Brown-Forma Distillers Corp.*, 196 Cal. App. 3d 503, 518 (1989) (front pay until mandatory retirement age reached); *Rabago-Alvarez v. Dart Indus., Inc.*, 55 Cal. App. 3d 91, 97-98 (1976) (four years). Even conservatively estimating that Plaintiff seeks front pay benefits for only the next two years, the amount of future wages in controversy in this case would total at least an additional \$121,035 (assuming 2 years x \$60,517.62 per year annual salary), not including overtime.

Thus, it may reasonably be estimated that Plaintiff's claims involving back pay and front pay alone place the amount in controversy well in excess of **\$148,971**.

20. **Overtime Wages:** In addition, Plaintiff seeks restitution of overtime wages for his alleged misclassification as an exempt employee through his third and sixth claims for violation of Labor Code sections 1194 and 1198, and violation of Business & Professions Code section 17200. *See Compl.*, at ¶¶ 50, 63, 65. Plaintiff alleges that he was a "non-exempt" full time employee that "regularly worked in excess of 60 hours per week for Defendants." *See id.* at ¶¶ 14, 47. As Plaintiff is allegedly owed 20 hours of overtime per week and since Plaintiff seeks to recover for claims four years prior to the filing of the Complaint, the amount of overtime at issue is approximately 4,160 hours (20 unpaid overtime hours per week x 52 weeks x 4 years). Thus, the monetary amount at issue of alleged unpaid overtime, without penalties or interest, is approximately **\$181,584** (4,160 overtime hours x 1.5 overtime rate x \$29.10 hourly rate).

21. **Labor Code § 226 Penalties:** Further, Plaintiff seeks “all available statutory penalties, costs and reasonable attorneys’ fees” under his fourth claim for violation of Labor Code section 226 for Defendant’s purported failure to provide accurate wage statements. *See* Compl., at ¶ 54. Violations of Labor Code section 226 provide for penalties up to \$4,000 per employee. *See* CAL. LAB CODE § 226(e). Accordingly, Plaintiff places **\$4,000** in controversy with his fourth claim.

22. **Labor Code § 203 Waiting Time Penalties:** Plaintiff also seeks to recover waiting time penalties for a willful failure to pay wages due at the conclusion of the employment relationship under his fifth claim for violation of Labor Code section 203. The maximum penalty authorized under Section 203 is 30 days of wages per employee. *See* CAL. LAB CODE § 203. Thus, before including any overtime, the sum of potential Section 203 penalties is at least \$6,984 (8 hours per day x \$29.10 hourly rate x 30 days). If overtime wages are considered based on Plaintiff’s allegation that he “regularly” worked 60 hours per week, the Section 203 penalties may be as high as **\$12,222** (\$6,984 + [4 hours overtime per day x 1.5 overtime rate x \$29.10 hourly rate x 30 days]).

B. Plaintiff Additionally Seeks Emotional Distress Damages, Punitive Damages and Attorneys’ Fees.

23. With respect to his first and second claims for age discrimination under the FEHA and wrongful termination in violation of public policy, Plaintiff additionally seeks non-economic damages for “emotional and mental distress” (Compl., at ¶¶ 35, 41), “punitive damages” (¶¶ 36, 42, & Prayer, at ¶ 2) and “attorneys’ fees” (Compl., at ¶¶ 34, 40). In addition, Plaintiff seeks attorneys’ fees for his third and fourth claims under the Labor Code. Compl., at ¶¶ 50, 54 & Prayer, at ¶ 9.

24. Plaintiff’s requested items of relief further establish that the amount in controversy exceeds \$75,000. *See Kroske v. U.S. Bank Corp.*, 432 F.3d 976, 980 (9th Cir. 2005), *cert denied*, 127 S.Ct. 157 (2006) (Emotional distress damages and

1 attorneys' fees may be considered in calculating the amount in controversy; moreover,
2 the plaintiff's emotional distress damages would add "***at least an additional \$25,000***
3 ***to her claim***" even though the plaintiff only had \$55,000 in lost wages) (emphasis
4 added); see e.g., *Aucina v. Amoco Oil Co.*, 871 F. Supp. 332, 334 (S.D. Iowa 1994)
5 (concluding in a discrimination and wrongful termination case that the purpose of
6 punitive damages is to capture the defendant's attention and to deter others from
7 similar conduct and, thus, the plaintiff's claim for ***punitive damages could alone***
8 ***exceed the jurisdictional minimum***); see *Brady v. Mercedes-Benz USA, Inc.*, 243 F.
9 Supp. 2d 1004, 1010-11 (N.D. Cal. 2002) (court may estimate the amount of
10 ***reasonable attorneys' fees*** likely to be recovered by a plaintiff if she were to prevail
11 in determining whether amount in controversy exceeds \$75,000).

12 25. After compiling damages for lost wages (\$330,555), penalties (\$16,222),
13 emotional distress (at least \$25,000), punitive damages, and an award for Plaintiff's
14 reasonable attorneys' fees, it is more likely than not that Plaintiff could potentially
15 recover in excess of \$75,000. Accordingly, Defendant has carried its burden of
16 demonstrating by a preponderance of the evidence that the amount in controversy in
17 this matter exceeds the jurisdictional minimum.

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VII.

NOTICE TO COURT AND PARTIES

26. Contemporaneously with the filing of this Notice of Removal in the United States District Court for the Central District of California, written notice of the removal will be given by the undersigned to counsel for Plaintiff, and a copy of this Notice of Removal will be filed with the Clerk of the Superior Court for the State of California for the County of Los Angeles.

Dated: December 12, 2013

LITTLER MENDELSON, P.C.



MONICA M. QUINN
JENNIFER TSAO
Attorneys for Defendant
LENDER PROCESSING SERVICES,
INC.

Exhibit “A”

ORIGINAL FILED

OCT 17 2013

**LOS ANGELES
SUPERIOR COURT**

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11 ROBERT OTTEN

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES - CENTRAL

11 ROBERT OTTEN, an individual
12 California resident,

13 Plaintiff,

14 v.

15 LENDER PROCESSING SERVICES, INC., a
16 Delaware corporation; and DOES 1-50, inclusive,

17 Defendants.

Case No.:

BC 5248 BY FAX

COMPLAINT FOR:

- (1) DISCRIMINATION ON THE BASIS OF AGE (CAL. GOV'T CODE § 12940);
(2) WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY;
(3) FAILURE TO PAY OVERTIME COMPENSATION IN VIOLATION OF CAL. LABOR CODE §§ 1198, 1194;
(4) KNOWING AND INTENTIONAL FAILURE TO COMPLY WITH ITEMIZED EMPLOYEE WAGE STATEMENT PROVISIONS (LABOR CODE § 226);
(5) FAILURE TO TIMELY PAY WAGES DUE AT TERMINATION (LABOR CODE §§ 201, 202, 203); AND
(6) UNLAWFUL BUSINESS PRACTICES (BUSINESS & PROFESSIONS CODE § 17200)

DEMAND FOR TRIAL BY JURY

26 Plaintiff Robert Otten ("Plaintiff"), for his complaint against defendants Lender Processing
27 Services, Inc. and Does 1 through 50 inclusive (collectively, as "Defendants"), and each of them,
28 alleges as follows:

JURISDICTION AND VENUE

1
2 1. The Court has personal jurisdiction over the Defendants because they are residents of
3 and/or are doing business in the State of California.

4 2. Venue is proper in this County in accordance with Section 395(a) of the California
5 Code of Civil Procedure because the Defendants, or some of them, reside in this County, and the
6 injuries alleged herein occurred in this County. In the alternative, venue is appropriate in this County
7 in accordance with Section 395(a) and Section 395.5 of the California Code of Civil Procedure
8 because Defendants and Plaintiff contracted to perform their obligations in this County, the contract
9 was entered into in this County, and because the liability, obligation and breach occurred within this
10 County. Venue is further appropriate in this county in accordance with Section 12965(b) of the
11 California Government Code because the unlawful practices alleged by Plaintiff in violation of the
12 California Fair Employment and Housing Act [Cal. Gov't Code §§ 12940, et seq.] were committed in
13 this County.

14 **THE PARTIES**

15 3. At all relevant times mentioned herein, Plaintiff was an individual residing within the
16 County of Los Angeles, State of California.

17 4. Plaintiff is informed and believes, and based thereon alleges, that Defendant Lender
18 Processing Services, Inc. is, and at all relevant times herein was, a California corporation, which
19 regularly and systematically does business in the County of Los Angeles, California.

20 5. Plaintiff is unaware of the true names and capacities of Defendants sued herein as
21 Does 1-50, inclusive ("Doe Defendants"), and therefore sues these Doe Defendants by such fictitious
22 names. Plaintiff will seek leave to amend this Complaint to allege the true names and capacities of
23 said Doe Defendants when ascertained. Plaintiff is informed and believes, and thereon alleges, that at
24 all relevant times mentioned herein, each of the fictitiously-named Doe Defendants conducted
25 business in Los Angeles County, California, and are culpable or responsible in some manner and/or
26 conspired with one or more of the other Defendants for the conduct, acts, omissions, occurrences,
27 injuries, and damages herein alleged, and that Plaintiff's injuries and damages were directly and
28 proximately caused thereby.

6. Plaintiff is informed and believes, and based thereon alleges, that at all times mentioned herein, each defendant was the agent, servant, employee, alter ego and/or associate of each of the other defendants, and was at all times acting within the course and scope of such relationship.

7. Whenever appearing in this complaint, each and every reference to "Defendant LPS" is intended to be, and shall be deemed, a reference to Lender Processing Services, Inc. and Does 1-10.

8. Whenever appearing in this complaint, each and every reference to "Defendants" is intended to be, and shall be deemed, a reference to all Defendants in this action, and each of them, named and unnamed, including all fictitiously named defendants.

GENERAL ALLEGATIONS

9. Defendant LPS is a provider of mortgage and consumer loan processing services, mortgage settlement services, default solutions and loan performance analytics, as well as solutions for the real estate industry, capital markets investors and government offices. Defendant LPS maintains several offices in Southern California.

10. Plaintiff is a 53 year-old individual.

11. In or about September 2004, Plaintiff commenced working for Defendant LPS as a Bulk Data Fulfillment Operator. Plaintiff's job duties included running pre-programmed computer jobs to format data in Defendant LPS's database in order to send it out to Defendant LPS's bulk data customers.

12. By early 2005, Plaintiff was able to organize his job duties to the point that he was finishing his days' work by noon. Accordingly, Defendant LPS assigned Plaintiff additional job duties such as converting entire data files. In or about early 2006, Plaintiff began writing programs to extract recorded documents and images from county websites. These programs were known as "Images Harvesters."

13. By mid-2007, Plaintiff spent nearly all of his working time writing and maintaining the Images Harvesters programs.

14. At all relevant times, Plaintiff regularly worked more than eight hours per work day, and more than forty hours per work week for Defendant LPS and Doe Defendants. In fact, Plaintiff regularly worked in excess of 60 hours per week for Defendants.

1 15. Defendant LPS and Doe Defendants failed to pay Plaintiff one and one-half (1 1/2)
2 times his regular rate of pay for the hours Plaintiff worked in excess of forty hours per work week, as
3 required under California law including, but not limited to, Wage Order 4, CCR § 11040 and
4 California Labor Code §§ 1194, 1198.

5 16. Defendant LPS and Doe Defendants, additionally, failed to pay Plaintiff one and one-
6 half (1 1/2) times his regular rate of pay for the hours Plaintiff worked in excess of eight (8) hours per
7 workday, and two (2) times his regular rate of pay for the hours Plaintiff worked in excess of twelve
8 (12) hours per workday as required under California law including, but not limited to Wage Order 4,
9 CCR § 11040 and California Labor Code §§ 1194, 1198.

10 17. Beginning in 2011, Plaintiff repeatedly informed his supervisor at the time, John
11 McCabe ("McCabe"), that Plaintiff felt that he was under employed and that he should have the title
12 of Programmer. McCabe agreed with Plaintiff.

13 18. On or about May 10, 2011, Plaintiff learned that the Images Harvesters programs that
14 he had developed were being sent to outside programmers so they could try to write harvester
15 programs for the company. Specifically, while on a telephone conference call with McCabe, Webster
16 Royston ("Royston") (McCabe's supervisor), and a vendor of Defendant LPS, Plaintiff was asked
17 extensively about the Images Harvesters programs. At one point, the conversation focused on the
18 Key Generator portion of the program. Plaintiff wrote the Key Generator at home so that it would
19 make is work with Defendant LPS easier. Thus, Plaintiff believed that he owned this portion of the
20 program. During the telephone conference, Plaintiff was directly asked whether he owned Key
21 Generator. Plaintiff responded that he owned all of the programs.

22 19. Following the May 10, 2011 telephone conference, Royston informed Plaintiff that he
23 would refer the matter of the ownership of the programs to corporate counsel.

24 20. On or about May 26, 2011, a project manager for Defendant LPS's vendor was at
25 Defendant LPS's office to meet with Plaintiff and to go over the process of writing harvester
26 programs. During the time that the vendor was at Defendant LPS's office, Royston asked Plaintiff to
27 give Defendant LPS's vendor a copy of the source code for the Key Generator. Plaintiff responded,
28 "Let's get the legal issues surrounding the ownership of the programs resolved first and then we can

1 discuss the further release of more source code." Royston stated: "So, you are saying no." Plaintiff
2 responded: "Yes, I am saying no." Plaintiff also informed Royston that Plaintiff believed the
3 ownership of the intellectual property rights belonged to Plaintiff and that he was thinking about
4 filing a complaint for theft of intellectual property.

5 21. Later on May 26, 2011, in direct retaliation for Plaintiff exercising what he believed to
6 be his ownership of the intellectual property rights to the Key Generator program, Plaintiff was given
7 a written warning for purported insubordination.

8 22. On or about September 1, 2011, Plaintiff was informed that corporate counsel finally
9 made a decision regarding Plaintiff's concerns regarding ownership of the programs. Plaintiff was
10 informed that Defendant LPS believed that the Key Generator program was owned by Defendant
11 LPS.

12 23. Throughout the remainder of his employment with Defendant LPS, Plaintiff disputed
13 Defendant LPS's contention that it owned the rights to the Key Generator program. Indeed, Plaintiff
14 continued to voice his opinion to Defendant LPS's management and maintained that he owned the
15 copyright.

16 24. By early 2013, Plaintiff and four other individuals worked under McCabe in Pasadena,
17 California. In April 2013, McCabe was transferred to Defendant LPS's office in Irvine, California.
18 Additionally, two operators and one programmer under McCabe (all in their 20's or early 30's) were
19 transferred to Irvine, California. Plaintiff and one other individual (also in her 50's) remained in
20 Pasadena.

21 25. On May 1, 2013, Plaintiff and the other remaining individual were informed that their
22 employment was terminated effective immediately. Specifically, they were both told that their
23 positions had been eliminated due to a reduction-in-force.

24 26. Unlike the three individuals in their 20's and early 30's, Plaintiff and the other
25 employee were not given the option to transfer to any other location. Plaintiff was shocked that the
26 three others had been selected to keep their positions with Defendant LPS, especially considering
27 Plaintiff's vast experience and programming knowledge.

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1 33. Defendants' discriminatory actions against Plaintiff, as alleged above, including his
2 termination of employment on May 1, 2013, constituted unlawful discrimination in employment on
3 account of his age, in violation of California Government Code Section 12940(a).

4 34. By the aforesaid acts and omissions of Defendants, and each of them, Plaintiff has
5 been directly and legally caused to suffer actual damages including, but not limited to, loss of
6 earnings and future earning capacity, attorneys' fees, costs of suit and other pecuniary loss not
7 presently ascertained.

8 35. As a further direct and legal result of the acts and conduct of Defendants, and each of
9 them, as aforesaid, Plaintiff has been caused to and did suffer and continues to suffer severe
10 emotional and mental distress, anguish, humiliation, embarrassment, fright, shock, pain, discomfort
11 and anxiety. The exact nature and extent of said injuries is presently unknown to Plaintiff. Plaintiff
12 does not know at this time the exact duration or permanence of said injuries, but is informed and
13 believes and thereon alleges that some if not all of the injuries are reasonably certain to be permanent
14 in character.

15 36. Plaintiff is informed and believes, and thereon alleges, that the Defendants, and each
16 of them, by engaging in the aforementioned acts and/or in authorizing and/or ratifying such acts,
17 engaged in willful, malicious, intentional oppressive and despicable conduct, and acted with willful
18 and conscious disregard of the rights, welfare and safety of Plaintiff, thereby justifying the award of
19 punitive and exemplary damages in an amount to be determined at trial.

20 37. As a result of Defendants' acts and conduct, as alleged herein, Plaintiff is entitled to
21 reasonable attorneys' fees and costs of suit as provided in Section 12965(b) of the California
22 Government Code.

23 **SECOND CAUSE OF ACTION**

24 **Wrongful Termination in Violation of Public Policy**

25 **(Against All Defendants)**

26 38. Plaintiff realleges and incorporates herein by reference each and every allegation
27 contained in paragraphs 1 through 37, inclusive, hereinabove, as though set forth in full.
28

1 39. The termination of Plaintiff's employment by Defendants, and each of them, violated
2 the fundamental public policies of the State of California, which, among other things, (a) mandate
3 that employees be free from age discrimination; and (b) prohibit employees from being terminated for
4 exercising their rights under state and federal copyright laws. These fundamental public policies are
5 embodied in; Sections 12940, et seq. of the California Government Code; Title 17 of the United
6 States Code; and various other statutes, codes, and regulations.

7 40. By the aforesaid acts and omissions of Defendants, and each of them, Plaintiff has
8 been directly and legally caused to suffer actual damages including, but not limited to, loss of
9 earnings and future earning capacity, attorneys' fees, costs of suit and other pecuniary loss not
10 presently ascertained.

11 41. As a further direct and legal result of the acts and conduct of Defendants, and each of
12 them, as aforesaid, Plaintiff has been caused to and did suffer and continues to suffer severe
13 emotional and mental distress, anguish, humiliation, embarrassment, fright, shock, discomfort,
14 anxiety, physical pain and suffering. The exact nature and extent of said injuries is presently
15 unknown to Plaintiff. Plaintiff does not know at this time the exact duration or permanence of said
16 injuries, but is informed and believes and thereon alleges that some if not all of the injuries are
17 reasonably certain to be permanent in character.

18 42. Plaintiff is informed and believes, and thereon alleges, that the Defendants, and each
19 of them, by engaging in the aforementioned acts and/or in authorizing and/or ratifying such acts,
20 engaged in willful, malicious, intentional, oppressive and despicable conduct, and acted with willful
21 and conscious disregard of the rights, welfare and safety of Plaintiff, thereby justifying the award of
22 punitive and exemplary damages in an amount to be determined at trial.

23 43. As a result of Defendants conduct as alleged herein, Plaintiff is entitled to reasonable
24 attorneys' fees and costs of suit as provided in Section 1021.5 of the California Civil Procedure Code.

THIRD CAUSE OF ACTION

Failure to Pay Overtime Compensation

(Against All Defendants)

44. Plaintiff realleges and incorporates herein by reference each and every allegation contained in paragraphs 1 through 27, inclusive hereinabove, as though set forth in full.

45. By the aforesaid acts and omissions of Defendant LPS and Doe Defendants, and each of them, Plaintiff was deprived of the wages (and other benefits) to which he was entitled pursuant to the California Labor Code, the California Industrial Welfare Commission's ("IWC") Wage Orders and other wage and hour laws.

46. Throughout Plaintiff's employment, in violation of Labor Code Sections 200 *et seq.* and other wage and hour laws, Defendant LPS and Doe Defendants failed and refused to pay Plaintiff the wages due and payable to him, including overtime pay.

47. Plaintiff was a "non-exempt" full time employee. Pursuant to California Labor Code § 510 and the relevant Industrial Welfare Commission Orders and California Code of Regulations, Defendant LPS and Doe Defendants were required to compensate Plaintiff for all overtime, which is calculated at one and one-half (1 ½) times the regular rate of pay for hours worked in excess of eight (8) hours per day and/or forty (40) hours per week, and 2 times the regular rate of pay for hours worked in excess of twelve (12) hours per day or in excess of eight (8) hours on the seventh (7th) consecutive day of work in a workweek.

48. During his employment, Plaintiff was required to work, and did work, more than eight (8) hours per day and more than forty (40) hours per week. However, in violation of the California Labor Code and the applicable Industrial Welfare Commission Orders, Defendant LPS and Doe Defendants failed to pay Plaintiff overtime.

49. Defendant LPS and Doe Defendants failed and refused to pay Plaintiff the overtime compensation required by California Labor Code § 510 and 1194, and IWC Wage Order 4-2001.

50. As a proximate result of Defendant LPS and Doe Defendants' wrongful conduct, Plaintiff has been deprived of his rightfully earned overtime compensation. Therefore, Plaintiff is

1 entitled to recover the unpaid balance of wages owed, penalties, plus interest and reasonable
2 attorneys' fees and costs.

3 **FOURTH CAUSE OF ACTION**

4 **Failure to Furnish Wage and Hour Statement**

5 **(Against All Defendants)**

6 51. Plaintiff realleges and incorporates herein by reference each and every allegation
7 contained in paragraphs 1 through 27 and 44 through 50, inclusive hereinabove, as though set forth in
8 full.

9 52. Labor Code § 226(a) requires every employer to provide an itemized statement in
10 writing with each paycheck to non-exempt employees showing the employees: (1) gross wages
11 earned, (2) total hours worked, (3) the number of piece-rate units earned and any applicable piece rate
12 if the employee is paid on a piece rate basis, (4) all the deductions, provided that all deductions made
13 on written orders of employee may be aggregated and shown as one item, (5) net wages earned, (6)
14 the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the
15 last four digits of his or her social security number or the employee's identification number other than
16 a social security number may be shown on the itemized statement, (8) the name and address of the
17 legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and
18 the corresponding number of hours worked at each hourly rate by the employee.

19 53. At all times during Plaintiff's employment, Defendant LPS and Doe Defendants failed
20 to provide Plaintiff with timely and accurate wage and hour statements showing gross wages earned,
21 totaled hours worked, all deductions made, net wages earned and all applicable hourly rates in effect
22 during each pay period and the corresponding number of hours worked at each hourly rate.

23 54. As alleged herein, Plaintiff has not been exempt from minimum wage and overtime
24 law as enumerated in the IWC Wage Orders and California Labor Code. As a consequence of
25 Defendant LPS and Doe Defendants' actions, Plaintiff is entitled to all available statutory penalties,
26 costs and reasonable attorneys' fees, including those provided in California Labor § 226(e), as well as
27 all other available remedies.

1 **FIFTH CAUSE OF ACTION**

2 **For Waiting Time Penalties**

3 **(Against All Defendants)**

4 55. Plaintiff realleges and incorporates herein by reference each and every allegation
5 contained in paragraphs 1 through 27 and 44 through 54, inclusive hereinabove, as though set forth in
6 full.

7 56. Defendants, and each of them, willfully failed to pay accrued wages and other
8 compensation due immediately to Plaintiff at the time of his termination, including monies owed for
9 overtime compensation as required by California Labor Code § 201.

10 57. As a consequence of Defendants' actions, Plaintiff is entitled to all available statutory
11 penalties, including those provided in California Labor Code § 203, as well as all other available
12 remedies.

13 58. As alleged herein, Plaintiff has not been exempt from minimum wage and overtime
14 law as enumerated in the IWC Wage Orders and California Labor Code.

15 **SIXTH CAUSE OF ACTION**

16 **Unlawful Business Practices**

17 **(Against All Defendants)**

18 59. Plaintiff realleges and incorporates herein by reference each and every allegation
19 contained in paragraphs 1 through 27 and 44 through 58, inclusive hereinabove, as though set forth in
20 full.

21 60. Defendant LPS and Doe Defendants' failure to pay earned wages and provide proper
22 records under the California Labor Code and IWC Wage Orders, constitute unlawful activity
23 prohibited by Business and Professions Code section 17200.

24 61. The actions of Defendant LPS and Doe Defendants in failing to pay Plaintiff in a
25 lawful manner constitute false, unfair, fraudulent and deceptive business practices, within the
26 meaning of Business and Professions Code sections 17200, et seq.

27 62. Plaintiff is entitled to injunctive relief against such unlawful practices in order to
28 prevent further damage, for which there is no adequate remedy at law.

63. As a result of its unlawful acts, Defendant LPS and Doe Defendants have reaped unfair benefits at the expense of Plaintiff. Defendant should be enjoined from this activity and made to disgorge these ill-gotten gains and restore Plaintiff with the wrongfully withheld wages, pursuant to Business and Professions Code section 17200 et seq. Plaintiff is informed and believes, and thereon alleges, that Defendant LPS and Doe Defendants have been unjustly enriched through its failure to pay earned wages, its failure to pay wages in a timely manner, and its failure to comply with lawful payroll practices.

64. Plaintiff is informed and believes, and thereon alleges, that Plaintiff and the general public are prejudiced by Defendant LPS and Doe Defendants' unfair trade practices.

65. As a direct and proximate result of the unfair business practices of Defendant LPS and Doe Defendants, Plaintiff is entitled to equitable and injunctive relief, including full restitution, disgorgement, and/or specific performance of payment of all wages that have been unlawfully withheld from Plaintiff as a result of the business acts and practices described herein and enjoining Defendant LPS and Doe Defendants to cease and desist from engaging in the practices described herein.

66. The illegal conduct alleged herein is continuing and there is no indication that Defendant will not continue such activity into the future. Plaintiff alleges that if Defendant LPS and Doe Defendants are not enjoined from the conduct set forth in this Complaint, they will continue to refuse payment of earned wages and continue their unlawful payroll practices.

67. Plaintiff further requests that the Court issue a preliminary and permanent injunction prohibiting Defendant from continuing the illegal practices described hereinabove.

PRAYER

WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, as to all causes of action as follows:

1. For general and special damages according to proof at trial, including prejudgment interest thereon;
2. For exemplary and punitive damages in an amount according to proof at trial;
3. For compensatory damages;

1 4. For a waiting time penalty in an amount equal to thirty days' of Plaintiff's regular rate
2 of pay, as provided in Section 203 of the California Labor Code;

3 5. For all statutory penalties including those pursuant to Labor Code §§ 512, 558, 226.3,
4 226.7, and 1174.5;

5 6. For restitution of all monies due to Plaintiff for the unlawful business acts and
6 practices of defendant;

7 7. For injunctive relief;

8 8. For prejudgment and post judgment interest;

9 9. For Plaintiff's attorneys' fees and costs of suit incurred herein to the extent provided
10 by contract, statute, or other law, including California Labor Code §§ 218.5, 1194, 2699; California
11 Government Code Section 12965(b); and Code of Civil Procedure § 1021.5;

12 10. For such other further relief as the court may deem necessary, just, or proper.
13

14 DATED: October 16, 2013

KINAGA LAW FIRM

By 

Andrew L. Alexis
Attorney for Plaintiff
ROBERT OTTEN

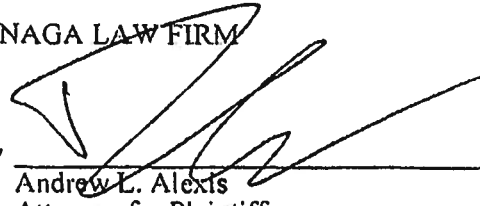
JURY DEMAND

Plaintiff hereby demands a jury trial on all causes of action.

DATED: October 16, 2013

KINAGA LAW FIRM

By



Andrew L. Alexis
Attorney for Plaintiff
ROBERT OTTEN

Exhibit “B”

11/13 2:55pm

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

Lender Processing Services, Inc. a Delaware corporation;
and DORS 1-50, inclusive

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE):

Robert Otten, an individual California resident

SUM-100

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

ORIGINAL FILED

OCT 17 2013

LOS ANGELES
SUPERIOR COURT

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lee la información en continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen este citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted puede usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumple con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desear el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): Stanley Mosk Courthouse

111 N. Hill Street
Los Angeles, CA 90012

CASE NUMBER
(Número del caso): 524845

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Drew Alexis, Kinaga Law Firm, 617 S. Olive St. Ste 1210, Los Angeles, CA 90014; (213) 623-8588

BY FAX

DATE: 10/16/13
(Fecha) OCT 17 2013

John A. Clarke

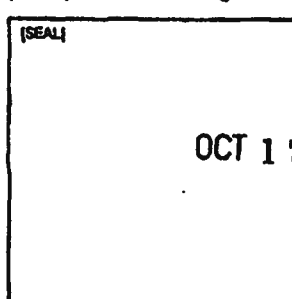
Clerk, by
(Secretario)

J. Vargas

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

- ☐ as an individual defendant.
- ☐ as the person sued under the fictitious name of (specify):

OCT 17 2013

☒ on behalf of (specify): Lender Processing Services, Inc., a

under: ☒ CCP 416.10 (corporation)☐ CCP 416.20 (defunct corporation)☐ CCP 416.40 (association or partnership)☐ other (specify):

- ☐ by personal delivery on (date):

☐ CCP 416.60 (minor) **DELAWARE**
☐ CCP 416.70 (conservatee) **CORPORATION**
☐ CCP 416.80 (authorized person)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): KINAGA LAW FIRM ANDREW L. ALEXIS (SBN 177692) 617 South Olive Street, Suite 1210 Los Angeles, CA 90014 TELEPHONE NO.: (213) 623-8588 FAX NO.: (213) 623-8788 ATTORNEY FOR (Name): Plaintiff Robert Otten		CM-010 FOR COURT USE ONLY <div style="font-size: 24pt; font-weight: bold;">ORIGINAL FILED</div> OCT 17 2013 <div style="font-size: 18pt; font-weight: bold;">LOS ANGELES SUPERIOR COURT</div>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles STREET ADDRESS: 111 North Hill Street MAILING ADDRESS: CITY AND ZIP CODE: Los Angeles, California 90012 BRANCH NAME: Central - Stanley Mosk Courthouse		CASE NUMBER: <div style="font-size: 24pt; font-weight: bold;">BC 524845</div>
CASE NAME: Robert Otten v. Lender Processing Services, Inc., et al.		
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less) Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)		JUDGE: DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PIPD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PIPD/WD (23) Non-PIP/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PIP/WD tort (35) Employment <input checked="" type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): Six (6)
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: October 15, 2013

Andrew L. Alexis

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Form Adopted for Mandatory Use
Judicial Council of California
CM-010 (Rev. July 1, 2007)**CIVIL CASE COVER SHEET**Cal. Rules of Court, rules 2.30, 3.220, 3.400-3.403, 3.740;
Cal. Standards of Judicial Administration, std. 3.10
www.courtinfo.ca.gov

Page 1 of 2

CM-010

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort	Contract	Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400-3.403)
Auto (22)—Personal Injury/Property Damage/Wrongful Death	Breach of Contract/Warranty (06)	Antitrust/Trade Regulation (03)
Uninsured Motorist (48) <i>(If the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)</i>	Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction)	Construction Defect (10)
Other PUPD/WND (Personal Injury/Property Damage/Wrongful Death) Tort	Contract/Warranty Breach—Seller Plaintiff (not fraud or negligence)	Claims Involving Mass Tort (40)
Asbestos (04)	Negligent Breach of Contract/Warranty	Securities Litigation (28)
Asbestos Property Damage	Warranty	Environmental/Toxic Tort (30)
Asbestos Personal Injury/Wrongful Death	Other Breach of Contract/Warranty	Insurance Coverage Claims (arising from provisionally complex case type listed above) (41)
Product Liability (not asbestos or toxic/environmental) (24)	Collections (e.g., money owed, open book accounts) (09)	Enforcement of Judgment
Medical Malpractice (45)	Collection Case—Seller Plaintiff	Enforcement of Judgment (20)
Medical Malpractice—Physicians & Surgeons	Other Promissory Note/Collections Case	Abstract of Judgment (Out of County)
Other Professional Health Care Malpractice	Insurance Coverage (not provisionally complex) (18)	Confession of Judgment (non-domestic relations)
Other PUPD/WND (23)	Auto Subrogation	Sister State Judgment
Premises Liability (e.g., slip and fall)	Other Coverage	Administrative Agency Award (not unpaid taxes)
Intentional Bodily Injury/PD/WND (e.g., assault, vandalism)	Other Contract (37)	Petition/Certification of Entry of Judgment on Unpaid Taxes
Intentional Infliction of Emotional Distress	Contractual Fraud	Other Enforcement of Judgment Case
Negligent Infliction of Emotional Distress	Other Contract Dispute	Miscellaneous Civil Complaint
Other PUPD/WND	Real Property	RICO (27)
Non-PUPD/WND (Other) Tort	Eminent Domain/Inverse Condemnation (14)	Other Complaint (not specified above) (42)
Business Tort/Unfair Business Practice (07)	Wrongful Eviction (33)	Declaratory Relief Only
Civil Rights (e.g., discrimination, false arrest) (not civil harassment) (08)	Other Real Property (e.g., quiet title) (26)	Injunctive Relief Only (non-harassment)
Defamation (e.g., slander, libel) (13)	Writ of Possession of Real Property	Mechanics Lien
Fraud (16)	Mortgage Foreclosure	Other Commercial Complaint Case (non-tort/non-complex)
Intellectual Property (19)	Quiet Title	Other Civil Complaint (non-tort/non-complex)
Professional Negligence (25)	Other Real Property (not eminent domain, landlord/tenant, or foreclosure)	Miscellaneous Civil Petition
Legal Malpractice	Unlawful Detainer	Partnership and Corporate Governance (21)
Other Professional Malpractice (not medical or legal)	Commercial (31)	Other Petition (not specified above) (43)
Other Non-PUPD/WND Tort (35)	Residential (32)	Civil Harassment
Employment	Drugs (38) <i>(If the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)</i>	Workplace Violence
Wrongful Termination (36)	Judicial Review	Elder/Dependent Adult Abuse
Other Employment (15)	Asset Forfeiture (05)	Election Contest
	Petition Re: Arbitration Award (11)	Petition for Name Change
	Writ of Mandate (02)	Petition for Relief From Late Claim
	Writ—Administrative Mandamus	Other Civil Petition
	Writ—Mandamus on Limited Court Case Matter	
	Writ—Other Limited Court Case Review	
	Other Judicial Review (39)	
	Review of Health Officer Order	
	Notice of Appeal—Labor Commissioner Appeals	

SHORT TITLE:

Robert Otten v. Lender Processing Services, Inc., et al.

CASE NUMBER

BC524845

**CIVIL CASE COVER SHEET ADDENDUM AND
STATEMENT OF LOCATION
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

BY FAX

This form is required pursuant to Local Rule 2.0 in all new civil case filings in the Los Angeles Superior Court.

Item I. Check the types of hearing and fill in the estimated length of hearing expected for this case:

JURY TRIAL? ☒ YES CLASS ACTION? ☐ YES LIMITED CASE? ☐ YES TIME ESTIMATED FOR TRIAL 5-7 ☐ HOURS/ ☒ DAYS

Item II. Indicate the correct district and courthouse location (4 steps – If you checked "Limited Case", skip to Item III, Pg. 4):

Step 1: After first completing the Civil Case Cover Sheet form, find the main Civil Case Cover Sheet heading for your case in the left margin below, and, to the right in Column A, the Civil Case Cover Sheet case type you selected.

Step 2: Check one Superior Court type of action in Column B below which best describes the nature of this case.

Step 3: In Column C, circle the reason for the court location choice that applies to the type of action you have checked. For any exception to the court location, see Local Rule 2.0.

Applicable Reasons for Choosing Courthouse Location (see Column C below)

- | | |
|--|--|
| 1. Class actions must be filed in the Stanley Mosk Courthouse, central district. | 6. Location of property or permanently garaged vehicle. |
| 2. May be filed in central (other county, or no bodily injury/property damage). | 7. Location where petitioner resides. |
| 3. Location where cause of action arose. | 8. Location wherein defendant/respondent functions wholly. |
| 4. Location where bodily injury, death or damage occurred. | 9. Location where one or more of the parties reside. |
| 5. Location where performance required or defendant resides. | 10. Location of Labor Commissioner Office |

Step 4: Fill in the information requested on page 4 in Item III; complete Item IV. Sign the declaration.

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Auto Tort	Auto (22)	<input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1., 2., 4.
	Uninsured Motorist (46)	<input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death - Uninsured Motorist	1., 2., 4.
Other Personal Injury/Property Damage/Wrongful Death Tort	Asbestos (04)	<input type="checkbox"/> A8070 Asbestos Property Damage <input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death	2. 2.
	Product Liability (24)	<input type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental)	1., 2., 3., 4., 8.
	Medical Malpractice (45)	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons	1., 4.
		<input type="checkbox"/> A7240 Other Professional Health Care Malpractice	1., 4.
	Other Personal Injury Property Damage Wrongful Death (23)	<input type="checkbox"/> A7250 Premises Liability (e.g., slip and fall) <input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.) <input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress <input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death	1., 4. 1., 4. 1., 3. 1., 4.

SHORT TITLE: Robert Otten v. Lender Processing Services, Inc., et al.	CASE NUMBER
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	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Non-Personal Injury/Property Damage/Wrongful Death Tort	Business Tort (07)	<input type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1., 3.
	Civil Rights (08)	<input type="checkbox"/> A6005 Civil Rights/Discrimination	1., 2., 3.
	Defamation (13)	<input type="checkbox"/> A6010 Defamation (slander/libel)	1., 2., 3.
	Fraud (18)	<input type="checkbox"/> A6013 Fraud (no contract)	1., 2., 3.
	Professional Negligence (25)	<input type="checkbox"/> A6017 Legal Malpractice <input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal)	1., 2., 3. 1., 2., 3.
	Other (35)	<input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort	2., 3.
Employment	Wrongful Termination (36)	<input checked="" type="checkbox"/> A6037 Wrongful Termination	1., 2., 3.
	Other Employment (15)	<input type="checkbox"/> A6024 Other Employment Complaint Case <input type="checkbox"/> A6109 Labor Commissioner Appeals	1., 2., 3. 10.
Contract	Breach of Contract/Warranty (08) (not insurance)	<input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction) <input type="checkbox"/> A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence) <input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud) <input type="checkbox"/> A6028 Other Breach of Contract/Warranty (not fraud or negligence)	2., 5. 2., 5. 1., 2., 5. 1., 2., 5.
	Collections (09)	<input type="checkbox"/> A6002 Collections Case-Seller Plaintiff <input type="checkbox"/> A6012 Other Promissory Note/Collections Case	2., 5., 6. 2., 5.
	Insurance Coverage (18)	<input type="checkbox"/> A6015 Insurance Coverage (not complex)	1., 2., 5., 6.
	Other Contract (37)	<input type="checkbox"/> A6009 Contractual Fraud <input type="checkbox"/> A6031 Tortious Interference <input type="checkbox"/> A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1., 2., 3., 5. 1., 2., 3., 5. 1., 2., 3., 6.
	Eminent Domain/Inverse Condemnation (14)	<input type="checkbox"/> A7300 Eminent Domain/Condemnation Number of parcels _____	2.
	Wrongful Eviction (33)	<input type="checkbox"/> A6023 Wrongful Eviction Case	2., 6.
Real Property	Other Real Property (26)	<input type="checkbox"/> A6018 Mortgage Foreclosure <input type="checkbox"/> A6032 Quiet Title <input type="checkbox"/> A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)	2., 6. 2., 6. 2., 6.
	Unlawful Detainer-Commercial (31)	<input type="checkbox"/> A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	2., 6.
	Unlawful Detainer-Residential (32)	<input type="checkbox"/> A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	2., 6.
Unlawful Detainer	Unlawful Detainer- Post-Foreclosure (34)	<input type="checkbox"/> A6020F Unlawful Detainer-Post-Foreclosure	2., 6.
	Unlawful Detainer-Drugs (38)	<input type="checkbox"/> A6022 Unlawful Detainer-Drugs	2., 6.

SHORT TITLE: Robert Otten v. Lender Processing Services, Inc., et al.	CASE NUMBER
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	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Judicial Review	Asset Forfeiture (05)	<input type="checkbox"/> A6108 Asset Forfeiture Case	2., 6.
	Petition re Arbitration (11)	<input type="checkbox"/> A6115 Petition to Compel/Confirm/Vacate Arbitration	2., 5.
	Writ of Mandate (02)	<input type="checkbox"/> A6151 Writ - Administrative Mandamus <input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter <input type="checkbox"/> A6153 Writ - Other Limited Court Case Review	2., 8. 2. 2.
	Other Judicial Review (39)	<input type="checkbox"/> A6150 Other Writ/Judicial Review	2., 8.
Provisionally Complex Litigation	Antitrust/Trade Regulation (03)	<input type="checkbox"/> A6003 Antitrust/Trade Regulation	1., 2., 8.
	Construction Defect (10)	<input type="checkbox"/> A6007 Construction Defect	1., 2., 3.
	Claims Involving Mass Tort (40)	<input type="checkbox"/> A6006 Claims Involving Mass Tort	1., 2., 8.
	Securities Litigation (28)	<input type="checkbox"/> A6035 Securities Litigation Case	1., 2., 8.
	Toxic Tort Environmental (30)	<input type="checkbox"/> A6036 Toxic Tort/Environmental	1., 2., 3., 8.
Enforcement of Judgment	Insurance Coverage Claims from Complex Case (41)	<input type="checkbox"/> A6014 Insurance Coverage/Subrogation (complex case only)	1., 2., 5., 8.
	Enforcement of Judgment (20)	<input type="checkbox"/> A6141 Sister State Judgment <input type="checkbox"/> A6160 Abstract of Judgment <input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations) <input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes) <input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax <input type="checkbox"/> A6112 Other Enforcement of Judgment Case	2., 9. 2., 6. 2., 9. 2., 8. 2., 8. 2., 8., 9.
Miscellaneous Civil Complaints	RICO (27)	<input type="checkbox"/> A6033 Racketeering (RICO) Case	1., 2., 8.
	Other Complaints (Not Specified Above) (42)	<input type="checkbox"/> A6030 Declaratory Relief Only <input type="checkbox"/> A6040 Injunctive Relief Only (not domestic/harassment) <input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex) <input type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex)	1., 2., 8. 2., 8. 1., 2., 8. 1., 2., 8.
Miscellaneous Civil Petitions	Partnership Corporation Governance (21)	<input type="checkbox"/> A6113 Partnership and Corporate Governance Case	2., 8.
	Other Petitions (Not Specified Above) (43)	<input type="checkbox"/> A6121 Civil Harassment <input type="checkbox"/> A6123 Workplace Harassment <input type="checkbox"/> A6124 Elder/Dependent Adult Abuse Case <input type="checkbox"/> A6190 Election Contest <input type="checkbox"/> A6110 Petition for Change of Name <input type="checkbox"/> A6170 Petition for Relief from Late Claim Law <input type="checkbox"/> A6100 Other Civil Petition	2., 3., 9. 2., 3., 9. 2., 3., 9. 2. 2., 7. 2., 3., 4., 8. 2., 9.

SHORT TITLE: Robert Otten v. Lender Processing Services, Inc., et al.	CASE NUMBER
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Item III. Statement of Location: Enter the address of the accident, party's residence or place of business, performance, or other circumstance indicated in Item II., Step 3 on Page 1, as the proper reason for filing in the court location you selected.

REASON: Check the appropriate boxes for the numbers shown under Column C for the type of action that you have selected for this case. <input type="checkbox"/> 1. <input checked="" type="checkbox"/> 2. <input type="checkbox"/> 3. <input type="checkbox"/> 4. <input type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. <input type="checkbox"/> 8. <input type="checkbox"/> 9. <input type="checkbox"/> 10.		ADDRESS: 3100 New York Drive
CITY: Pasadena	STATE: CA	ZIP CODE: 91107

Item IV. Declaration of Assignment: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that the above-entitled matter is properly filed for assignment to the Stanley Mosk courthouse in the Central District of the Superior Court of California, County of Los Angeles (Code Civ. Proc., § 392 et seq., and Local Rule 2.0, subds. (b), (c) and (d)).

Dated: October 15, 2013


(SIGNATURE OF ATTORNEY/FILING PARTY)

PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet, Judicial Council form CM-010.
4. Civil Case Cover Sheet Addendum and Statement of Location form, LACIV 109, LASC Approved 03-04 (Rev. 03/11).
5. Payment in full of the filing fee, unless fees have been waived.
6. A signed order appointing the Guardian ad Litem, Judicial Council form CIV-010, if the plaintiff or petitioner is a minor under 18 years of age will be required by Court in order to issue a summons.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.

Exhibit “C”

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES
NOTICE OF CASE ASSIGNMENT - UNLIMITED CIVIL CASE (NON-CLASS ACTION)
Case Number _____

THIS FORM IS TO BE SERVED WITH THE SUMMONS AND COMPLAINT

Your case is assigned for all purposes to the judicial officer indicated below. There is additional information on the reverse side of this form.

BC524845

ASSIGNED JUDGE	DEPT	ROOM	ASSIGNED JUDGE	DEPT	ROOM
Hon. Daniel Buckley	1	534	Hon. Malcolm H. Mackey	55	515
Hon. Barbara A. Meiers	12	636	Hon. Michael Johnson	56	514
Hon. Terry A. Green	14	300	Hon. Rolf M. Treu	58	516
Hon. Richard Fruin	15	307	Hon. Michael L. Stern	62	600
Hon. Rita Miller	16	306	Hon. Mark Mooney	68	617
Hon. Richard E. Rico	17	309	Hon. William F. Fahey	69	621
Hon. Kevin C. Brazile	20	310	Hon. Soussan G. Bruguera	71	729
Hon. Robert L. Hess	24	314	Hon. Ruth Ann Kwan	72	731
Hon. Mary Ann Murphy	25	317	Hon. Teresa Sanchez-Gordon	74	735
Hon. Yvette M. Palazuelos	28	318			
Hon. Barbara Schepers	30	400			
Hon. Mary H. Strobel	32	406	Hon. Emilie H. Elias	324	CCW
Hon. Michael P. Linfield	34	408	Hon. Elihu M. Berle*	323	CCW
Hon. Maureen Duffy-Lewis	38	412	OTHER		
Hon. Michelle R. Rosenblatt	40	414			
Hon. Ronald M. Sohigian	41	417			
Hon. Holly E. Kendig	42	416			
Hon. Mel Red Recana	45	529			
Hon. Debra Katz Weintraub	47	507			
Hon. Elizabeth Allen White	48	506			
Hon. Deirdre Hill	49	509			
Hon. John L. Segal	50	508			
Hon. Abraham Khan	51	511			
Hon. Susan Bryant-Deason	52	510			
Hon. Steven J. Kleinfeld	53	513			
Hon. Ernest M. Hiroshige	54	512			

***Complex**

All cases designated as complex (other than class actions) are initially assigned to Judge Elihu M. Berle in Department 323 of the Central Civil West Courthouse (600 S. Commonwealth Ave., Los Angeles 90005). This assignment is for the purpose of assessing whether or not the case is complex within the meaning of California Rules of Court, rule 3.400. Depending on the outcome of that assessment, the case may be reassigned to one of the judges of the Complex Litigation Program or reassigned randomly to a court in the Central District.

Given to the Plaintiff/Cross-Complainant/Attorney of Record on

OCT 17 2013

By SHERRI R. CARTER, Executive Officer/Clerk
Deputy Clerk

INSTRUCTIONS FOR HANDLING UNLIMITED CIVIL CASES

The following critical provisions of the Chapter Three Rules, as applicable in the Central District, are summarized for your assistance.

APPLICATION

The Chapter Three Rules were effective January 1, 1994. They apply to all general civil cases.

PRIORITY OVER OTHER RULES

The Chapter Three Rules shall have priority over all other Local Rules to the extent the others are inconsistent.

CHALLENGE TO ASSIGNED JUDGE

A challenge under Code of Civil Procedure section 170.6 must be made within 15 days after notice of assignment for all purposes to a judge, or if a party has not yet appeared, within 15 days of the first appearance.

TIME STANDARDS

Cases assigned to the Individual Calendaring Court will be subject to processing under the following time standards:

COMPLAINTS: All complaints shall be served within 60 days of filing and proof of service shall be filed within 90 days of filing.

CROSS-COMPLAINTS: Without leave of court first being obtained, no cross-complaint may be filed by any party after their answer is filed. Cross-complaints shall be served within 30 days of the filing date and a proof of service filed within 60 days of the filing date.

A Status Conference will be scheduled by the assigned Independent Calendar Judge no later than 270 days after the filing of the complaint. Counsel must be fully prepared to discuss the following issues: alternative dispute resolution, bifurcation, settlement, trial date, and expert witnesses.

FINAL STATUS CONFERENCE

The Court will require the parties at a status conference not more than 10 days before the trial to have timely filed and served all motions in limine, bifurcation motions, statements of major evidentiary issues, dispositive motions, requested jury instructions, and special jury instructions and special jury verdicts. These matters may be heard and resolved at this conference. At least 5 days before this conference, counsel must also have exchanged lists of exhibits and witnesses and have submitted to the court a brief statement of the case to be read to the jury panel as required by Chapter Eight of the Los Angeles Superior Court Rules.

SANCTIONS

The court will impose appropriate sanctions for the failure or refusal to comply with Chapter Three Rules, orders made by the Court, and time standards or deadlines established by the Court or by the Chapter Three Rules. Such sanctions may be on a party or if appropriate on counsel for the party.

This is not a complete delineation of the Chapter Three Rules, and adherence only to the above provisions is therefore not a guarantee against the imposition of sanctions under Trial Court Delay Reduction. Careful reading and compliance with the actual Chapter Rules is absolutely imperative.

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

FILE STAMP

OCT 17 2013

Sherri R. Carter, Executive Officer/Clerk

By T. Barkley, Deputy

NOTICE SENT TO:

Kinaga Law Firm
617 South Olive Street, Suite 1210n
Los Angeles CA 90014

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

ROBERT OTTEN

Plaintiff(s),

VS.

LENDER PROCESSING SERVICES INC

Defendant(s).

CASE NUMBER

BC524845

NOTICE OF CASE
MANAGEMENT CONFERENCE

TO THE PLAINTIFF(S)/ATTORNEY(S) FOR PLAINTIFF(S) OF RECORD:

You are ordered to serve this notice of hearing on all parties/attorneys of record forthwith, and meet and confer with all parties/attorneys of record about the matters to be discussed no later than 30 days before the Case Management Conference.

Your Case Management Conference has been scheduled for January 14, 2014 at 8:30 am in Dept. 62
at 111 North Hill Street, Los Angeles, California 90012.

NOTICE TO DEFENDANT: THE SETTING OF THE CASE MANAGEMENT CONFERENCE DOES NOT EXEMPT THE
DEFENDANT FROM FILING A RESPONSIVE PLEADING AS REQUIRED BY LAW.

Pursuant to California Rules of Court, rules 3.720-3.730, a completed Case Management Statement (Judicial Council form # CM-110) must be filed at least 15 calendar days prior to the Case Management Conference. The Case Management Statement may be filed jointly by all parties/attorneys of record or individually by each party/attorney of record. You must be familiar with the case and be fully prepared to participate effectively in the Case Management Conference.

At the Case Management Conference, the Court may make pretrial orders including the following, but not limited to, an order establishing a discovery schedule; an order referring the case to Alternative Dispute Resolution (ADR); an order reclassifying the case; an order setting subsequent conference and the trial date; or other orders to achieve the goals of the Trial Court Delay Reduction Act (Gov. Code, section 68600 et seq.)

Notice is hereby given that if you do not file the Case Management Statement or appear and effectively participate at the Case Management Conference, the Court may impose sanctions pursuant to LASC Local Rule 7.13, Code of Civil Procedure sections 177.5, 575.2, 583.150, 583.360 and 583.410, Government Code Section 68608 (b), and California Rules of Court 2.2 et seq.

Date: October 17, 2013

MICHAEL J. BARKLEY

Judicial Officer

CERTIFICATE OF SERVICE

I, the below named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the Notice of Case Management Conference upon each party or counsel named above:

☒ by depositing in the United States mail at the courthouse in Los Angeles, California, one copy of the original filed herein in a separate sealed envelope to each address as shown above with postage thereon fully prepaid.

[] by personally giving the party notice upon filing the complaint.

Date: October 17, 2013

Sherri R. Carter, Executive Officer/Clerk

by _____, Deputy Clerk

LACIV 132 (Rev. 09/07)

LASC Approved 10-03

TRACY BARKLEY

Cal. Rules of Court, rule 3.720-3.730
LASC Local Rules, Chapter Seven

VOLUNTARY EFFICIENT LITIGATION STIPULATIONS

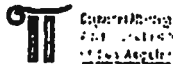


Superior Court of California
County of Los Angeles



Los Angeles County
Bar Association
Litigation Section

Los Angeles County
Bar Association Labor and
Employment Law Section



Consumer Attorneys
Association of Los Angeles



Southern California
Defense Counsel



Association of
Business Trial Lawyers



California Employment
Lawyers Association

The Early Organizational Meeting Stipulation, Discovery Resolution Stipulation, and Motions In Limine Stipulation are voluntary stipulations entered into by the parties. The parties may enter into one, two, or all three of the stipulations; however, they may not alter the stipulations as written, because the Court wants to ensure uniformity of application. These stipulations are meant to encourage cooperation between the parties and to assist in resolving issues in a manner that promotes economic case resolution and judicial efficiency.

The following organizations endorse the goal of promoting efficiency in litigation and ask that counsel consider using these stipulations as a voluntary way to promote communications and procedures among counsel and with the court to fairly resolve issues in their cases.

◆ Los Angeles County Bar Association Litigation Section ◆

◆ Los Angeles County Bar Association
Labor and Employment Law Section ◆

◆ Consumer Attorneys Association of Los Angeles ◆

◆ Southern California Defense Counsel ◆

◆ Association of Business Trial Lawyers ◆

◆ California Employment Lawyers Association ◆

NAME AND ADDRESS OF ATTORNEY OR PARTY WITHOUT ATTORNEY:		STATE BAR NUMBER	Reserved for Clerk's File Stamp
TELEPHONE NO.:		FAX NO. (Optional):	
E-MAIL ADDRESS (Optional):			
ATTORNEY FOR (Name):			
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES			
COURTHOUSE ADDRESS:			
PLAINTIFF:			
DEFENDANT:			
STIPULATION – EARLY ORGANIZATIONAL MEETING			CASE NUMBER

This stipulation is intended to encourage cooperation among the parties at an early stage in the litigation and to assist the parties in efficient case resolution.

The parties agree that:

1. The parties commit to conduct an initial conference (in-person or via teleconference or via videoconference) within 15 days from the date this stipulation is signed, to discuss and consider whether there can be agreement on the following:
 - a. Are motions to challenge the pleadings necessary? If the issue can be resolved by amendment as of right, or if the Court would allow leave to amend, could an amended complaint resolve most or all of the issues a demurrer might otherwise raise? If so, the parties agree to work through pleading issues so that a demurrer need only raise issues they cannot resolve. Is the issue that the defendant seeks to raise amenable to resolution on demurrer, or would some other type of motion be preferable? Could a voluntary targeted exchange of documents or information by any party cure an uncertainty in the pleadings?
 - b. Initial mutual exchanges of documents at the "core" of the litigation. (For example, in an employment case, the employment records, personnel file and documents relating to the conduct in question could be considered "core." In a personal injury case, an incident or police report, medical records, and repair or maintenance records could be considered "core.");
 - c. Exchange of names and contact information of witnesses;
 - d. Any insurance agreement that may be available to satisfy part or all of a judgment, or to indemnify or reimburse for payments made to satisfy a judgment;
 - e. Exchange of any other information that might be helpful to facilitate understanding, handling, or resolution of the case in a manner that preserves objections or privileges by agreement;
 - f. Controlling issues of law that, if resolved early, will promote efficiency and economy in other phases of the case. Also, when and how such issues can be presented to the Court;
 - g. Whether or when the case should be scheduled with a settlement officer, what discovery or court ruling on legal issues is reasonably required to make settlement discussions meaningful, and whether the parties wish to use a sitting judge or a private mediator or other options as

SHORT TITLE:	CASE NUMBER:
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discussed in the "Alternative Dispute Resolution (ADR) Information Package" served with the complaint;

- h. Computation of damages, including documents not privileged or protected from disclosure, on which such computation is based;
 - i. Whether the case is suitable for the Expedited Jury Trial procedures (see information at www.lasuperiorcourt.org under "Civil" and then under "General Information").
2. The time for a defending party to respond to a complaint or cross-complaint will be extended to _____ (INSERT DATE) for the complaint, and _____ (INSERT DATE) for the cross-complaint, which is comprised of the 30 days to respond under Government Code § 68016(b), and the 30 days permitted by Code of Civil Procedure section 1054(a), good cause having been found by the Civil Supervising Judge due to the case management benefits provided by this Stipulation.
 3. The parties will prepare a joint report titled "Joint Status Report Pursuant to Initial Conference and Early Organizational Meeting Stipulation, and if desired, a proposed order summarizing results of their meet and confer and advising the Court of any way it may assist the parties' efficient conduct or resolution of the case. The parties shall attach the Joint Status Report to the Case Management Conference statement, and file the documents when the CMC statement is due.
 4. References to "days" mean calendar days, unless otherwise noted. If the date for performing any act pursuant to this stipulation falls on a Saturday, Sunday or Court holiday, then the time for performing that act shall be extended to the next Court day

The following parties stipulate:

Date: _____	> _____
(TYPE OR PRINT NAME)	(ATTORNEY FOR PLAINTIFF)
Date: _____	> _____
(TYPE OR PRINT NAME)	(ATTORNEY FOR DEFENDANT)
Date: _____	> _____
(TYPE OR PRINT NAME)	(ATTORNEY FOR DEFENDANT)
Date: _____	> _____
(TYPE OR PRINT NAME)	(ATTORNEY FOR DEFENDANT)
Date: _____	> _____
(TYPE OR PRINT NAME)	(ATTORNEY FOR _____)
Date: _____	> _____
(TYPE OR PRINT NAME)	(ATTORNEY FOR _____)
Date: _____	> _____
(TYPE OR PRINT NAME)	(ATTORNEY FOR _____)

NAME AND ADDRESS OF ATTORNEY OR PARTY WITHOUT ATTORNEY:		STATE BAR NUMBER	Received by Clerk's File Stamp
TELEPHONE NO.: E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):		FAX NO. (Optional):	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES			
COURTHOUSE ADDRESS:			
PLAINTIFF:			
DEFENDANT:			CASE NUMBER
STIPULATION – DISCOVERY RESOLUTION			

This stipulation is intended to provide a fast and informal resolution of discovery issues through limited paperwork and an informal conference with the Court to aid in the resolution of the issues.

The parties agree that:

1. Prior to the discovery cut-off in this action, no discovery motion shall be filed or heard unless the moving party first makes a written request for an Informal Discovery Conference pursuant to the terms of this stipulation.
2. At the Informal Discovery Conference the Court will consider the dispute presented by parties and determine whether it can be resolved informally. Nothing set forth herein will preclude a party from making a record at the conclusion of an Informal Discovery Conference, either orally or in writing.
3. Following a reasonable and good faith attempt at an informal resolution of each issue to be presented, a party may request an Informal Discovery Conference pursuant to the following procedures:
 - a. The party requesting the Informal Discovery Conference will:
 - i. File a Request for Informal Discovery Conference with the clerk's office on the approved form (copy attached) and deliver a courtesy, conformed copy to the assigned department;
 - ii. Include a brief summary of the dispute and specify the relief requested; and
 - iii. Serve the opposing party pursuant to any authorized or agreed method of service that ensures that the opposing party receives the Request for Informal Discovery Conference no later than the next court day following the filing.
 - b. Any Answer to a Request for Informal Discovery Conference must:
 - i. Also be filed on the approved form (copy attached);
 - ii. Include a brief summary of why the requested relief should be denied;

SHORT TITLE:	CASE NUMBER:
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- iii. Be filed within two (2) court days of receipt of the Request; and
 - iv. Be served on the opposing party pursuant to any authorized or agreed upon method of service that ensures that the opposing party receives the Answer no later than the next court day following the filing.
- c. No other pleadings, including but not limited to exhibits, declarations, or attachments, will be accepted.
- d. If the Court has not granted or denied the Request for Informal Discovery Conference within ten (10) days following the filing of the Request, then it shall be deemed to have been denied. If the Court acts on the Request, the parties will be notified whether the Request for Informal Discovery Conference has been granted or denied and, if granted, the date and time of the Informal Discovery Conference, which must be within twenty (20) days of the filing of the Request for Informal Discovery Conference.
- e. If the conference is not held within twenty (20) days of the filing of the Request for Informal Discovery Conference, unless extended by agreement of the parties and the Court, then the Request for the Informal Discovery Conference shall be deemed to have been denied at that time.
4. If (a) the Court has denied a conference or (b) one of the time deadlines above has expired without the Court having acted or (c) the Informal Discovery Conference is concluded without resolving the dispute, then a party may file a discovery motion to address unresolved issues.
5. The parties hereby further agree that the time for making a motion to compel or other discovery motion is tolled from the date of filing of the Request for Informal Discovery Conference until (a) the request is denied or deemed denied or (b) twenty (20) days after the filing of the Request for Informal Discovery Conference, whichever is earlier, unless extended by Order of the Court.
- It is the understanding and intent of the parties that this stipulation shall, for each discovery dispute to which it applies, constitute a writing memorializing a "specific later date to which the propounding [or demanding or requesting] party and the responding party have agreed in writing," within the meaning of Code Civil Procedure sections 2030.300(c), 2031.320(c), and 2033.290(c).
6. Nothing herein will preclude any party from applying *ex parte* for appropriate relief, including an order shortening time for a motion to be heard concerning discovery.
7. Any party may terminate this stipulation by giving twenty-one (21) days notice of intent to terminate the stipulation.
8. References to "days" mean calendar days, unless otherwise noted. If the date for performing any act pursuant to this stipulation falls on a Saturday, Sunday or Court holiday, then the time for performing that act shall be extended to the next Court day.

SHORT TITLE:	CASE NUMBER
--------------	-------------

The following parties stipulate:

Date:

(TYPE OR PRINT NAME)

Date:

(TYPE OR PRINT NAME)

Date:

(TYPE OR PRINT NAME)

Date:

(TYPE OR PRINT NAME)

Date:

(TYPE OR PRINT NAME)

Date:

(TYPE OR PRINT NAME)

Date:

(TYPE OR PRINT NAME)

> _____
(ATTORNEY FOR PLAINTIFF)

> _____
(ATTORNEY FOR DEFENDANT)

> _____
(ATTORNEY FOR DEFENDANT)

> _____
(ATTORNEY FOR DEFENDANT)

> _____
(ATTORNEY FOR _____)

> _____
(ATTORNEY FOR _____)

> _____
(ATTORNEY FOR _____)

NAME AND ADDRESS OF ATTORNEY OR PARTY WITHOUT ATTORNEY:		STATE BAR NUMBER	Reserved for Clerk's File Stamp
TELEPHONE NO.: E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):		FAX NO. (Optional):	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES			
COURTHOUSE ADDRESS:			
PLAINTIFF:			
DEFENDANT:			CASE NUMBER
INFORMAL DISCOVERY CONFERENCE (pursuant to the Discovery Resolution Stipulation of the parties)			

1. This document relates to:

☐
☐

Request for Informal Discovery Conference

Answer to Request for Informal Discovery Conference

2. Deadline for Court to decide on Request: _____ (insert date 10 calendar days following filing of the Request).
3. Deadline for Court to hold Informal Discovery Conference: _____ (insert date 20 calendar days following filing of the Request).
4. For a Request for Informal Discovery Conference, briefly describe the nature of the discovery dispute, including the facts and legal arguments at issue. For an Answer to Request for Informal Discovery Conference, briefly describe why the Court should deny the requested discovery, including the facts and legal arguments at issue.

NAME AND ADDRESS OF ATTORNEY OR PARTY WITHOUT ATTORNEY:		STATE BAR NUMBER	Reserved for Clerk's File Stamp
TELEPHONE NO.: E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):		FAX NO. (Optional):	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES			
COURTHOUSE ADDRESS:			
PLAINTIFF:			
DEFENDANT:			CASE NUMBER
STIPULATION AND ORDER – MOTIONS IN LIMINE			

This stipulation is intended to provide fast and informal resolution of evidentiary issues through diligent efforts to define and discuss such issues and limit paperwork.

The parties agree that:

1. At least ____ days before the final status conference, each party will provide all other parties with a list containing a one paragraph explanation of each proposed motion in limine. Each one paragraph explanation must identify the substance of a single proposed motion in limine and the grounds for the proposed motion.
2. The parties thereafter will meet and confer, either in person or via teleconference or videoconference, concerning all proposed motions in limine. In that meet and confer, the parties will determine:
 - a. Whether the parties can stipulate to any of the proposed motions. If the parties so stipulate, they may file a stipulation and proposed order with the Court.
 - b. Whether any of the proposed motions can be briefed and submitted by means of a short joint statement of issues. For each motion which can be addressed by a short joint statement of issues, a short joint statement of issues must be filed with the Court 10 days prior to the final status conference. Each side's portion of the short joint statement of issues may not exceed three pages. The parties will meet and confer to agree on a date and manner for exchanging the parties' respective portions of the short joint statement of issues and the process for filing the short joint statement of issues.
3. All proposed motions in limine that are not either the subject of a stipulation or briefed via a short joint statement of issues will be briefed and filed in accordance with the California Rules of Court and the Los Angeles Superior Court Rules.

SHORT TITLE:	CASE NUMBER:
---------------------	---------------------

The following parties stipulate:

Date:

(TYPE OR PRINT NAME)

Date:

(TYPE OR PRINT NAME)

Date:

(TYPE OR PRINT NAME)

Date:

(TYPE OR PRINT NAME)

Date:

(TYPE OR PRINT NAME)

Date:

(TYPE OR PRINT NAME)

Date:

(TYPE OR PRINT NAME)

> _____
(ATTORNEY FOR PLAINTIFF)

> _____
(ATTORNEY FOR DEFENDANT)

> _____
(ATTORNEY FOR DEFENDANT)

> _____
(ATTORNEY FOR DEFENDANT)

> _____
(ATTORNEY FOR _____)

> _____
(ATTORNEY FOR _____)

> _____
(ATTORNEY FOR _____)

THE COURT SO ORDERS.

Date: _____

JUDICIAL OFFICER

Exhibit “D”

00/00/2013 12:19:27 FAX 2132499990NATIONWIDE LEGAL

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

DEC 11 2013

Sherril R. Carter, Executive Officer/Clerk
By Cristina Grijalva, Deputy

COPY

BY FAX

1 MONICA M. QUINN, Bar No. 198332
2 mquinn@littler.com
3 JENNIFER TSAO, Bar No. 259985
4 jtsao@littler.com
5 LITTLER MENDELSON, P.C.
6 633 West Fifth Street, 63rd Floor
7 Los Angeles, California 90071
8 Telephone: (213) 443-4300
9 Fax No.: (213) 443-4299

10 Attorneys for Defendant
11 LENDER PROCESSING SERVICES, INC.

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES - CENTRAL DISTRICT

ROBERT OTTEN, an individual California
resident,

Plaintiff,

v.

LENDER PROCESSING SERVICES,
INC., a Delaware corporation; and DOES 1
through 50, inclusive,

Defendant(s).

CASE NO. BC524845

[ASSIGNED FOR ALL PURPOSES TO HON.
MICHAEL L. STERN, DEPT. 62]

DEFENDANT LENDER PROCESSING
SERVICES, INC.'S ANSWER TO
COMPLAINT OF PLAINTIFF ROBERT
OTTEN

Complaint filed: October 17, 2013

LASC - FILINGS
111 N. HILL STREET
LOS ANGELES CA 90012

DATE PAID: 12/11/13 02:38 PM
RECEIPT #: CCH195707066

CIT/CASE: BC524845
LEA/DEF#:

PAYMENT:	\$435.00	310
RECEIVED:		
CHECK:		\$435.00
CASH:		\$0.00
CHANGE:		\$0.00
CARD:		\$0.00

LITTLER MENDELSON, P.C.
2040 Century Park East
8th Floor
Los Angeles, CA 90067-3107
310 553-0200

Firmwide: 124418901.5 074399.1011

1.

DEFENDANT'S ANSWER TO PLAINTIFF'S UNVERIFIED COMPLAINT

1 Defendant LENDER PROCESSING SERVICES, INC. ("Defendant") hereby answers the
2 unverified Complaint of Plaintiff ROBERT OTTEN ("Plaintiff"), by admitting, denying and alleging
3 as follows:

4 **GENERAL DENIAL**

5 Pursuant to the provisions of Code of Civil Procedure section 431.30, Defendant generally
6 denies each and every allegation contained in Plaintiff's unverified Complaint, and further denies
7 that Plaintiff is entitled to general damages, past and future lost income and benefits, punitive
8 damages, costs of suit, attorneys' fees, prejudgment or post-judgment interest, or any other relief of
9 any kind whatsoever.

10 **AFFIRMATIVE DEFENSES**

11 Defendant further asserts the following affirmative defenses. By asserting these defenses,
12 Defendant does not concede that it has the burden of production or proof as to any affirmative
13 defenses asserted below. Moreover, Defendant does not presently know all the factors concerning
14 the conduct of Plaintiff sufficient to state all affirmative defenses at this time. Accordingly,
15 Defendant will seek leave of this Court to amend this answer should it later discover facts
16 demonstrating the existence of additional affirmative defenses. Furthermore, all such defenses are
17 pleaded in the alternative, and do not constitute an admission of liability or that Plaintiff is entitled to
18 any relief whatsoever.

19 **FIRST AFFIRMATIVE DEFENSE**

20 **(Failure to State a Cause of Action)**

21 1. As a separate and distinct affirmative defense, Defendant asserts that the Complaint
22 and each cause of action set forth therein fail to state facts sufficient to constitute a cause of action
23 upon which relief may be granted.

24 **SECOND AFFIRMATIVE DEFENSE**

25 **(Waiver)**

26 2. As a separate and distinct affirmative defense, Defendant asserts that the Complaint
27 and each cause of action set forth therein are barred, in whole or in part, by the equitable doctrine of
28 waiver.

THIRD AFFIRMATIVE DEFENSE

(Estoppel)

3. As a separate and distinct affirmative defense, Defendant asserts that the Complaint and each cause of action set forth therein are barred, in whole or in part, by the equitable doctrine of estoppel.

FOURTH AFFIRMATIVE DEFENSE

(Laches)

4. As a separate and distinct affirmative defense, Defendant asserts that the Complaint and each cause of action set forth therein are barred, in whole or in part, by the equitable doctrine of laches.

FIFTH AFFIRMATIVE DEFENSE

(Consent)

5. As a separate and distinct affirmative defense, Defendant asserts that the Complaint and each cause of action set forth therein are barred, in whole or in part, by the equitable doctrine of consent.

SIXTH AFFIRMATIVE DEFENSE

(Statutes of Limitation)

6. As a separate and distinct affirmative defense, Defendant alleges that the Complaint and each cause of action set forth therein are barred, in whole or in part, by the applicable statutes of limitation including, without limitation, those set forth in California Government Code sections 12960 et seq. (one year), California Code of Civil Procedure sections 335.1 (two years), 338 (three years), and 343 (four years), and California Business and Professions Code Section 17208 (four years).

SEVENTH AFFIRMATIVE DEFENSE

(Failure to Exhaust Administrative Remedies)

7. As a separate and distinct affirmative defense, Defendant alleges that the Complaint and each cause of action set forth therein are barred, in whole or in part, because Plaintiff failed to exhaust his administrative remedies with the California Department of Fair Employment and/or

2.

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1 Housing and the Equal Employment Opportunity Commission.

2 **EIGHTH AFFIRMATIVE DEFENSE**

3 **(Failure to File Reasonably Related Complaint)**

4 8. As a separate and distinct affirmative defense, Defendant alleges that the allegations
5 contained therein are not reasonably related to the claims in any Complaint Plaintiff filed with the
6 Department of Fair Employment and Housing or Equal Employment Opportunity Commission.

7 **NINTH AFFIRMATIVE DEFENSE**

8 **(Business Necessity)**

9 9. As a separate and distinct affirmative defense, Defendant alleges, without admitting
10 that Defendant engaged in any of the acts or omissions alleged in Plaintiff's Complaint, that any
11 such acts or omissions were undertaken for business necessity and/or for lawful business reasons.

12 **TENTH AFFIRMATIVE DEFENSE**

13 **(Bona Fide Dispute)**

14 10. As a separate and distinct affirmative defense, Defendant alleges that the Complaint
15 fails to state a claim for penalties under the California Labor Code in that (1) there was a *bona fide*,
16 good faith dispute as to Defendant's obligations under any applicable Labor Code provisions,
17 including, without limitation, Labor Code section 203, and (2) Defendants did not willfully violate
18 Labor Code section 203.

19 **ELEVENTH AFFIRMATIVE DEFENSE**

20 **(Defendant Acted in Good Faith and with Good Cause)**

21 11. As a separate and distinct affirmative defense, Defendant alleges that the Complaint
22 and each cause of action set forth therein cannot be maintained because good cause existed for each
23 and every action taken by Defendant with respect to Plaintiff's employment and Defendant acted
24 reasonably and in good faith, at all times, based upon all relevant facts and circumstances known by
25 Defendant at the time it acted. Defendant further alleges that any violation of the California Labor
26 Code or of a Wage Order of the Industrial Welfare Commission was an act or omission made in
27 good faith, and that in any participation in such acts, Defendant had reasonable grounds for believing
28 that the act or omission was not a violation of the California Labor Code or any Wage Order of the

1 Industrial Welfare Commission.

2 **TWELFTH AFFIRMATIVE DEFENSE**

3 **(Exempt Status)**

4 12. As a separate and distinct affirmative defense, Defendant alleges that Plaintiff was an
5 exempt employee pursuant to the California Labor Code and the implementing rules and regulations
6 of the California Industrial Welfare Commission Occupational Wage Orders and thus, was exempt
7 from the overtime and meal and rest period provisions of California law.

8 **THIRTEENTH AFFIRMATIVE DEFENSE**

9 **(Failure to Meet Reasonable Expectations)**

10 13. As a separate and distinct affirmative defense, Defendant is informed and believes
11 that a reasonable opportunity for investigation and discovery will reveal, and on that basis alleges,
12 that any failure on the part of Plaintiff to meet the criteria of exempt status, particularly the
13 requirement that such person spend 50 percent or more of his time performing exempt duties during
14 any period, was the result of Plaintiff's failure to meet Defendant's reasonable expectations
15 concerning the discharge of his duties and/or to follow Defendant's reasonable instructions (Labor
16 Code section 2856), and therefore does not render him non-exempt.

17 **FOURTEENTH AFFIRMATIVE DEFENSE**

18 **(No Knowledge of Work)**

19 14. As a separate and distinct affirmative defense, Defendant alleged that if Plaintiff
20 "worked" hours for which compensation was not paid, Defendant had no knowledge, or reason to
21 know, of such "work" and such "work" was undertaken without the consent or permission of
22 Defendant.

23 **FIFTEENTH AFFIRMATIVE DEFENSE**

24 **(Plaintiff's Intentional Deception)**

25 15. As a separate and distinct affirmative defense, Defendant is informed and believes
26 that a reasonable opportunity for investigation and discovery will reveal, and on that basis alleges,
27 that the Complaint and the applicable Cause(s) of Action set forth therein cannot be maintained
28 against Defendant to the extent that Plaintiff failed to receive all wages due because Plaintiff

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intentionally deceived Defendant regarding the hours worked during the course of his employment, thereby relieving Defendant of liability for penalties.

SIXTEENTH AFFIRMATIVE DEFENSE

(Same Decision(s))

16. As a separate and distinct affirmative defense, Defendant alleges that Plaintiff's Complaint and each purported cause of action therein, or some of them, are barred because although Defendant denies having discriminatory animus towards Plaintiff, to the extent that Plaintiff suffered an adverse employment action motivated in part by discrimination, all acts or omissions allegedly attributed to Defendant also were motivated by nondiscriminatory reasons and such nondiscriminatory reasons alone would have induced Defendant to make the same adverse employment decision(s).

SEVENTEENTH AFFIRMATIVE DEFENSE

(After-Acquired Evidence)

17. As a separate and distinct affirmative defense, Defendant alleges that, to the extent Defendant acquires any evidence of wrongdoing by Plaintiff during the course of this litigation that would have materially affected the terms and conditions of Plaintiff's employment or would have resulted in Plaintiff being demoted, disciplined, and/or terminated, such after-acquired evidence shall bar Plaintiff's claims on liability or damages and shall reduce such claims as provided by law.

EIGHTEENTH AFFIRMATIVE DEFENSE

(Workers' Compensation Exclusivity and Preemption)

18. As a separate and distinct affirmative defense, Defendant alleges that the Complaint and each cause of action set forth therein, or some of them, are barred, in whole or in part, by the exclusive remedy provisions of the California Workers' Compensation Act, California Labor Code sections 3200, *et seq.* inasmuch as they involve an employee/employer relationship subject to workers' compensation coverage, conduct of Plaintiff in the course and scope of his employment, and an injury alleged by Plaintiff to have been proximately caused by his employment and, therefore, the Court lacks subject matter jurisdiction over such claims.

///

NINETEENTH AFFIRMATIVE DEFENSE

(Offset)

19. As a separate and distinct affirmative defense, Defendant alleges that any recovery to which Plaintiff might otherwise be entitled must be offset by any unemployment benefits and/or other monies and/or benefits Plaintiff has received or will receive, including, but not limited to, any overpayments made to Plaintiff and any contractual damages and/or indemnity owed by Plaintiff as the result of his failure to perform his contractual obligations or overpayment for hours worked.

TWENTIETH AFFIRMATIVE DEFENSE

(De Minimis)

20. As a separate and distinct affirmative defense, Defendant alleges that any amount of uncompensated time worked by Plaintiff, if any, was *de minimis* under California law.

TWENTY-FIRST AFFIRMATIVE DEFENSE

(Failure to Mitigate Damages)

21. As a separate and distinct affirmative defense, Defendant alleges that Plaintiff is barred from obtaining any recovery against Defendant by reason of his failure to mitigate his alleged damages, if any, or, alternatively, any damages or other relief awarded to Plaintiff must be reduced or limited to the extent of such failure to mitigate.

TWENTY-SECOND AFFIRMATIVE DEFENSE

(Misconduct of Other Parties)

22. As a separate and distinct affirmative defense, Defendant alleges that if Plaintiff suffered any damages as alleged in his Complaint, such damages were proximately or legally caused by the breach of duties and/or misconduct of Plaintiff and/or parties other than Defendant and, accordingly, any award of damages is several and must be reduced in whole or in part, or apportioned in proportion to the percentage of comparative fault of Plaintiff, other parties and/or unauthorized individuals.

TWENTY-THIRD AFFIRMATIVE DEFENSE

(Alleged Emotional Distress Caused by Outside Factors)

23. As a separate and distinct affirmative defense, Defendant alleges that if Plaintiff has

6.

1 suffered any emotional distress as alleged in his Complaint, such emotional distress was proximately
 2 caused by factors other than Plaintiff's employment, the actions of Defendant and/or anyone acting
 3 on Defendant's behalf.

4 **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

5 **(Emotional Distress Damages Unconstitutional)**

6 24. As a separate and distinct affirmative defense, Defendant alleges that Plaintiff is not
 7 entitled to recover emotional distress damages because California's system of emotional distress
 8 damages is unconstitutional under *State Farm Mutual Automobile Insurance Co. v. Campbell*, 538
 9 U.S. 408 (2003), as well as the United States and California Constitutions.

10 **TWENTY-FIFTH AFFIRMATIVE DEFENSE**

11 **(No Employment Relationship)**

12 25. As a separate and distinct affirmative defense, Defendant alleges that there was no
 13 employment relationship between it and Plaintiff; therefore, the Complaint, and each of its purported
 14 claims, fails to state a claim upon which relief can be granted as to Defendant.

15 **TWENTY-SIXTH AFFIRMATIVE DEFENSE**

16 **(Adequate Remedy at Law)**

17 26. As a separate and distinct affirmative defense, Defendant alleges that pursuant to
 18 California Business and Professions Code Section 17200, et seq., Plaintiff's claims for restitution are
 19 barred to the extent that these claims constitute damages and/or Plaintiff has an adequate remedy at
 20 law.

21 **TWENTY-SEVENTH AFFIRMATIVE DEFENSE**

22 **(Improper Civil Penalties)**

23 27. As a separate and distinct affirmative defense, Defendant alleges that pursuant to
 24 California Business and Professions Code Section 17200, et seq., any claim for civil penalties is
 25 barred.

26 ///

27 ///

TWENTY-EIGHTH AFFIRMATIVE DEFENSE

(Conduct Not Unfair and/or Unlawful)

28. As a separate and distinct affirmative defense, Defendant alleges that Plaintiff's claim under California Business and Professions Code Section 17200, et seq., is barred because Defendant's conduct and business practices are not "unfair" and/or "unlawful."

TWENTY-NINTH AFFIRMATIVE DEFENSE

(No Articulated Public Policy)

29. As a separate and distinct affirmative defense, Defendant alleges that Plaintiff's claim for wrongful termination in violation of public policy is barred to the extent it is based on statutes, regulations, or other laws which fail to supply the requisite substantial, fundamental, and articulated public policy on which such claims must be predicated.

THIRTIETH AFFIRMATIVE DEFENSE

(No Authorization)

30. As a separate and distinct affirmative defense, Defendant alleges it is not liable for punitive damages because Defendant did not (a) have advance knowledge of the unfitness of any employee and employee that employee with a conscious disregard of the rights and safety of others; or (b) engage in, authorize or ratify any wrongful conduct. California Civil Code section 3294(b).

THIRTY-FIRST AFFIRMATIVE DEFENSE

(No Malice, Oppression or Fraud)

31. As a separate and distinct affirmative defense, Defendant alleges Plaintiff is not entitled to recover punitive or exemplary damages herein, and any allegation with respect thereto should be stricken, because Plaintiff cannot establish facts by clear and convincing evidence sufficient to support allegations of malice, oppression or fraud. California Civil Code section 3294(a).

THIRTY-SECOND AFFIRMATIVE DEFENSE

(Punitive Damages Unconstitutional)

32. As a separate and distinct affirmative defense, Defendant alleges that Plaintiff is not entitled to recover punitive damages because the imposition of such damages violates the United States Constitution.

1 States and California Constitutions, in that: (1) such damages are so punitive in purpose and effect as
 2 to constitute a criminal penalty, entitling Defendant to rights to be given to Defendant in criminal
 3 proceedings under the United States and California Constitutions; (2) such damages constitute an
 4 impermissible restriction on speech and a violation of the First Amendment of the United States
 5 Constitution; (3) the imposition of such damages would violate Defendant's rights to due process
 6 and/or equal protection under the law, under the United States and California Constitutions; and/or
 7 (4) the California punitive damages statute is unconstitutional in that it imposes an undue burden on
 8 interstate commerce.

9 **THIRTY-THIRD AFFIRMATIVE DEFENSE**

10 **(Bad Faith and/or Frivolous Claims)**

11 33. As a separate and distinct affirmative defense, Defendant alleges that Plaintiff's
 12 claims are unreasonable, were filed in bad faith, and/or are frivolous and, for such reasons, justify an
 13 award of attorneys' fees and costs against Plaintiff and/or his attorneys pursuant to California law
 14 including, but not limited to California Code of Civil Procedure section 128.5 and/or Government
 15 Code section 12965(b).

16 **ADDITIONAL AFFIRMATIVE DEFENSES**

17 Defendant does not presently know all of the facts respecting the conduct of Plaintiff
 18 sufficient to allow them to state all affirmative defenses at this time. Defendant is informed and
 19 believes, however, that further investigation and discovery will reveal that it may have additional
 20 affirmative defenses available of which it is not fully aware at the present time. Defendant reserves
 21 the right to amend this Answer to assert said additional affirmative defenses should it later discover
 22 facts demonstrating the existence and applicability of same.

23 **PRAYER**

24 WHEREFORE, Defendant prays:

- 25 1. That Plaintiff takes nothing by his action against Defendant and that Plaintiff's
- 26 Complaint be dismissed in its entirety with prejudice;
- 27 2. That Judgment be entered in Defendant's favor;
- 28 3. That Defendant be awarded its attorneys' and expert fees and costs of suit herein (to

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1 the extent permitted by applicable law, including, but not limited to, California Government Code §
2 12965(b)) and California Labor Code §§ 218.5, 1194, 2699; and

3 4. Such other and further relief as the Court deems just and proper.

4 DATED: December 11, 2013

LITTLER MENDELSON, P.C.

6
7 
8 MONICA M. QUINN
9 JENNIFER TSAO
10 Attorneys for Defendant
11 LENDER PROCESSING SERVICES, INC.
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PROOF OF SERVICE

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 2049 Century Park East, 5th Floor, Los Angeles, California 90067.

On December 11, 2013, I served the foregoing document(s) described as

DEFENDANT LENDER PROCESSING SERVICES, INC.'S ANSWER TO COMPLAINT OF PLAINTIFF ROBERT OTTEN

on the interested parties in this action addressed as follows:

Andrew L. Alexis, Esq.
William O. Kampf, Esq.
Kinaga Law Firm
617 South Olive Street, Suite 1210
Los Angeles, California 90014
Tel.: (213) 623-8588
Fax: (213) 623-8788

☒ By placing true copies thereof enclosed in a sealed envelope(s) addressed as stated above.

☒ **BY MAIL (CCP § 1013(a)&(b)):** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one date after date of deposit for mailing the affidavit.

☐ **BY OVERNIGHT COURIER (CCP § 1013(c)&(d)):** I caused such envelope(s) to be delivered by overnight courier to the offices of the addressee(s) noted above.

☐ **BY PERSONAL SERVICE (CCP § 1011):** I caused such envelope(s) to be delivered by hand to the offices of the addressee(s) noted above.

☐ **BY MESSENGER SERVICE:** I served the documents by placing them in an envelope or package addressed to the persons at the addresses listed above and providing them to a **NATIONWIDE LEGAL LLC**, a professional messenger service for service.

☐ **BY FACSIMILE (CCP § 1013(e) and (f) and CRC Rule 2.306(h)):** on _____, I caused the above stated document by facsimile from the facsimile machine of Littler Mendelson whose facsimile number is (213) 443-4299 to the addressee(s) at the facsimile number(s) as stated above. The facsimile machine used complies with CRC Rule 2003(3). Pursuant to CRC Rule 2008(e) the transmission by facsimile was reported as complete and without error.

☐ **BY EMAIL (CCP § 1010.6; CRC Rule 2.251(g)):** I transmitted the above-stated document(s) and an unsigned copy of this declaration from my computer (electronic notification address _____@littler.com located at Littler Mendelson, 2049 Century Park East, 5th Floor, Los Angeles, California 90067.3107 to the interested parties in this action whose names and e-mail addresses are listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful. Service by e-mail or electronic transmission was agreed upon based on a court order or an agreement of the parties to accept service.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on December 11, 2013, at Los Angeles, California.


Rita Ann Jones

Exhibit “E”

POS-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State, number, and address) Drew Alexis KINAGA LAW FIRM 617 SOUTH OLIVE STREET SUITE#1210 LOS ANGELES, CA 90014 TELEPHONE NO.: (213) 623-8588 FAX NO. (Optional): (213) 623-8788 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):		FOR COURT USE ONLY FILED Superior Court of California County of Los Angeles NOV 18 2013 Sheri B. Carter, Executive Officer/Clerk By <u>Raul Sanchez</u> Deputy
Los Angeles County Superior Court - Stanley Mosk STREET ADDRESS: 111 N. Hill St. MAILING ADDRESS: CITY AND ZIP CODE: Los Angeles, CA 90012 BRANCH NAME: Central		CASE NUMBER: BC524845 62
PLAINTIFF/PETITIONER: ROBERT OTTEN DEFENDANT/RESPONDENT: LENDER PROCESSING SERVICES, INC.		Ref. No. or File No.: 759
PROOF OF SERVICE OF SUMMONS		

(Separate proof of service is required for each party served.)

1. At the time of service I was at least 18 years of age and not a party to this action.
 2. I served copies of:

- a. ☒ summons
 b. ☒ complaint
 c. ☐ Alternative Dispute Resolution (ADR) package
 d. ☐ Civil Case Cover Sheet (served in complex cases only)
 e. ☐ cross-complaint
 f. ☒ other (specify documents):

Civil Case Cover Sheet; Civil Case Cover Sheet Addendum & Statement of Location; Demand for Jury Trial; Notice of Case Assignment - Unlimited Civil Case; Voluntary Efficient Litigation Stipulations Packet; Notice of Case Management Conference; POS of Summons

3. a. Party served (specify name of party as shown on documents served):

LENDER PROCESSING SERVICES, INC., A DELAWARE CORPORATION

- b. ☒ Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) (specify name and relationship to the party named in item 3a):
CT CORPORATION - REGISTERED AGENT BY LEAVING WITH JAN LAPINID, PERSON AUTHORIZED TO ACCEPT

4. Address where the party was served: **CT CORPORATION SYSTEM**
818 WEST 7TH STREET
LOS ANGELES, CA 90017

5. I served the party (check proper box)

- a. ☒ by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): 11/13/2013 (2) at (time): 2:55 PM

- b. ☐ by substituted service. On (date): at (time): I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3b):

- (1) ☐ (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
 (2) ☐ (home) a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
 (3) ☐ (physical address unknown) a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
 (4) ☐ I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., §415.20). I mailed the documents on (date): from (city): or ☐ a declaration of mailing is attached.
 (5) ☐ I attach a declaration of diligence stating actions taken first to attempt personal service.

PETITIONER: ROBERT OTTEN

CASE NUMBER:

RESPONDENT: LENDER PROCESSING SERVICES, INC.

BC524845

- c. ☐ by mail and acknowledgment of receipt of service. I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
- (1) on (date): (2) from (city):
- (3) ☐ with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. (Attach completed *Notice and Acknowledgment of Receipt*.) (Code Civ. Proc., § 415.30.)
- (4) ☐ to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)
- d. ☐ by other means (specify means of service and authorizing code section):

☐ Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

- a. ☐ as an individual defendant.
- b. ☐ as the person sued under the fictitious name of (specify):
- c. ☐ as occupant.
- d. ☒ On behalf of (specify): **LENDER PROCESSING SERVICES, INC., A DELAWARE CORPORATION**
under the following Code of Civil Procedure section:

- | | |
|---|---|
| <input checked="" type="checkbox"/> 416.10 (corporation) | <input type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation) | <input type="checkbox"/> 416.60 (minor) |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee) |
| <input type="checkbox"/> 416.40 (association or partnership) | <input type="checkbox"/> 416.90 (authorized person) |
| <input type="checkbox"/> 416.50 (public entity) | <input type="checkbox"/> 415.46 (occupant) |
| | <input type="checkbox"/> other: |

7. Person who served papers

- a. Name: **De'Andre Johnson - Janney & Janney Attorney Service, Inc.**
- b. Address: **1545 Wilshire Blvd., Suite 311 Los Angeles, CA 90017**
- c. Telephone number: **(213) 628-6338**
- d. The fee for service was: **\$ 68.00**
- e. I am:

- (1) ☐ not a registered California process server.
- (2) ☐ exempt from registration under Business and Professions Code section 22350(b).
- (3) ☒ registered California process server:
- (i) ☐ owner ☒ employee ☐ independent contractor.
- (ii) Registration No.: 140/6700
- (iii) County: Los Angeles

8. ☒ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
- or
9. ☐ I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: November 15, 2013



Janney & Janney Attorney Service, Inc.
1545 Wilshire Blvd., Suite 311
Los Angeles, CA 90017
(213) 628-6338

De'Andre Johnson

(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)

De'Andre Johnson
(SIGNATURE)

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

NOTICE OF ASSIGNMENT TO UNITED STATES JUDGES

This case has been assigned to District Judge John F. Walter and the assigned Magistrate Judge is Victor B. Kenton.

The case number on all documents filed with the Court should read as follows:

2:13CV9172 JFW VBKx

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge.

Clerk, U. S. District Court

December 12, 2013

Date

By J. Prado
Deputy Clerk

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☒ Western Division
312 N. Spring Street, G-8
Los Angeles, CA 90012

☐ Southern Division
411 West Fourth St., Ste 1053
Santa Ana, CA 92701

☐ Eastern Division
3470 Twelfth Street, Room 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA

CIVIL COVER SHEET

I. (a) PLAINTIFFS (Check box if you are representing yourself ☐)

ROBERT OTTEN

DEFENDANTS (Check box if you are representing yourself ☐)

LENDER PROCESSING SERVICES, INC.

(b) County of Residence of First Listed Plaintiff Los Angeles

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Delaware/Florida

(IN U.S. PLAINTIFF CASES ONLY)

(c) Attorneys (Firm Name, Address and Telephone Number) If you are representing yourself, provide the same information.

Andrew L. Alexis
William O. Kampf
KINAGA LAW FIRM
617 South Olive Street, Suite 1210, Los Angeles, CA 90014 (213) 623-8588

Attorneys (Firm Name, Address and Telephone Number) If you are representing yourself, provide the same information.

Monica M. Quinn
Jennifer Tsao
LITTLER MENDELSON, APC, 2049 Century Park East, 5th Floor, Los Angeles, CA 90067
(310) 553-0308

II. BASIS OF JURISDICTION (Place an X in one box only.)

- ☐ 1. U.S. Government Plaintiff ☐ 3. Federal Question (U.S. Government Not a Party)
- ☐ 2. U.S. Government Defendant ☒ 4. Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES-For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant)

- | | | | | | |
|---|---|--------------------------------|---|--------------------------------|---------------------------------------|
| Citizen of This State | PTF <input checked="" type="checkbox"/> 1 | DEF <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State | PTF <input type="checkbox"/> 4 | DEF <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN (Place an X in one box only.)

- ☐ 1. Original Proceeding ☒ 2. Removed from State Court ☐ 3. Remanded from Appellate Court ☐ 4. Reinstated or Reopened ☐ 5. Transferred from Another District (Specify) ☐ 6. Multi-District Litigation

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check "Yes" only if demanded in complaint.)CLASS ACTION under F.R.Cv.P. 23: ☐ Yes ☒ No ☐ MONEY DEMANDED IN COMPLAINT: \$**VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Diversity jurisdiction: 28 U.S.C. section 1332(a)(1), 1441 and 1446.

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES	CONTRACT	REAL PROPERTY CONT.	IMMIGRATION	PRISONER PETITIONS	PROPERTY RIGHTS
<input type="checkbox"/> 375 False Claims Act	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 462 Naturalization Application	Habeas Corpus:	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 290 All Other Real Property	TORTS	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 140 Negotiable Instrument	PERSONAL INJURY	PERSONAL PROPERTY	<input type="checkbox"/> 530 General	SOCIAL SECURITY
<input type="checkbox"/> 450 Commerce/ICC Rates/Etc.	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 371 Truth in Lending	Other:	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 470 Racketeer Influenced & Corrupt Org.	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Vet.)	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 863 DIWC/DIWW (405 (g))
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 153 Recovery of Overpayment of Vet. Benefits	<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 340 Marine	BANKRUPTCY	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 865 RSI (405 (g))
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 560 Civil Detainee Conditions of Confinement	FEDERAL TAX SUITS
<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 423 Withdrawal 28 USC 157	FORFEITURE/PENALTY	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 891 Agricultural Acts	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 355 Motor Vehicle Product Liability	CIVIL RIGHTS	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
<input type="checkbox"/> 893 Environmental Matters	REAL PROPERTY	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 690 Other	
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input checked="" type="checkbox"/> 442 Employment	LABOR	
<input type="checkbox"/> 896 Arbitration	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 710 Fair Labor Standards Act	
<input type="checkbox"/> 899 Admin. Procedures Act/Review of Appeal of Agency Decision	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 445 American with Disabilities-Employment	<input type="checkbox"/> 720 Labor/Mgmt. Relations	
<input type="checkbox"/> 950 Constitutionality of State Statutes		<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 446 American with Disabilities-Other	<input type="checkbox"/> 740 Railway Labor Act	
		<input type="checkbox"/> 448 Education	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 751 Family and Medical Leave Act	
				<input type="checkbox"/> 790 Other Labor Litigation	
				<input type="checkbox"/> 791 Employee Ret. Inc. Security Act	

FOR OFFICE USE ONLY:

Case Number:

CV-71 (11/13)

CIVIL COVER SHEET

Page 1 of 3

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

VIII. VENUE: Your answers to the questions below will determine the division of the Court to which this case will most likely be initially assigned. This initial assignment is subject to change, in accordance with the Court's General Orders, upon review by the Court of your Complaint or Notice of Removal.

Question A: Was this case removed from state court? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If "no," go to Question B. If "yes," check the box to the right that applies, enter the corresponding division in response to Question D, below, and skip to Section IX.	STATE CASE WAS PENDING IN THE COUNTY OF:		INITIAL DIVISION IN CACD IS:
	<input checked="" type="checkbox"/> Los Angeles		Western
	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo		Western
	<input type="checkbox"/> Orange		Southern
	<input type="checkbox"/> Riverside or San Bernardino		Eastern

Question B: Is the United States, or one of its agencies or employees, a party to this action? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "no," go to Question C. If "yes," check the box to the right that applies, enter the corresponding division in response to Question D, below, and skip to Section IX.	If the United States, or one of its agencies or employees, is a party, is it:		INITIAL DIVISION IN CACD IS:
	A PLAINTIFF	A DEFENDANT	
	Then check the box below for the county in which the majority of DEFENDANTS reside.	Then check the box below for the county in which the majority of PLAINTIFFS reside.	
	<input type="checkbox"/> Los Angeles	<input type="checkbox"/> Los Angeles	Western
	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo	<input type="checkbox"/> Ventura, Santa Barbara, or San Luis Obispo	Western
	<input type="checkbox"/> Orange	<input type="checkbox"/> Orange	Southern
	<input type="checkbox"/> Riverside or San Bernardino	<input type="checkbox"/> Riverside or San Bernardino	Eastern
<input type="checkbox"/> Other	<input type="checkbox"/> Other	Western	

Question C: Location of plaintiffs, defendants, and claims? (Make only one selection per row)	A. Los Angeles County	B. Ventura, Santa Barbara, or San Luis Obispo Counties	C. Orange County	D. Riverside or San Bernardino Counties	Outside Central District of California	F. Other
Indicate the location in which a majority of plaintiffs reside:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Indicate the location in which a majority of defendants reside:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Indicate the location in which a majority of claims arose:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

C.1. Is either of the following true? If so, check the one that applies:

- ☐ 2 or more answers in Column C
☐ only 1 answer in Column C and no answers in Column D

Your case will initially be assigned to the
SOUTHERN DIVISION.
Enter "Southern" in response to Question D, below.

If none applies, answer question C2 to the right. →

C.2. Is either of the following true? If so, check the one that applies:

- ☐ 2 or more answers in Column D
☐ only 1 answer in Column D and no answers in Column C

Your case will initially be assigned to the
EASTERN DIVISION.
Enter "Eastern" in response to Question D, below.

If none applies, go to the box below. ↓

Your case will initially be assigned to the
WESTERN DIVISION.
Enter "Western" in response to Question D below.

Question D: Initial Division?	INITIAL DIVISION IN CACD
Enter the initial division determined by Question A, B, or C above: →	Western

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

IX(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? ☒ NO ☐ YES

If yes, list case number(s): _____

IX(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? ☒ NO ☐ YES

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply)
- ☐ A. Arise from the same or closely related transactions, happenings, or events; or
- ☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
- ☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
- ☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

X. SIGNATURE OF ATTORNEY

(OR SELF-REPRESENTED LITIGANT): _____

DATE: December 12, 2013

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet).

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405 (g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))